

**CHARTER REVIEW COMMISSION
DRAFTING COMMITTEE**

MAY 29, 1996

5:30 PM

Chairman Baines called the meeting to order.

The Clerk called the roll.

Present: Commissioners Baines, Cook, Shaw, Lopez
Commissioner Stephen was absent
Commissioner Sullivan arrived late

Commissioner Cook stated he had language regarding charter enforcement that he handed out last night, the group felt it needed additional language on allegations it was the Mayor who had violated the charter, what it now said was "in the event the allegation is alleged to have been caused by the Mayor the complaint shall be to the Aldermanic chair who shall refer the matter to the Solicitor".

Chairman Baines stated they had asked Commissioner Cook at the last drafting committee meeting to develop on the consensus they had worked on, the beginning of Section 3.01 of the Charter under Departments, and would like the committee to look it over.

Commissioner Shaw asked if the charter had been put on computer.

Commissioner Cook answered yes and he had a copy as it exists on the computer for each member.

Chairman Baines stated as soon as they agree on the wording it will be set up in the computer so they will be able to compare the old Charter with the revisions when it came time to vote.

Commissioner Cook stated to preface article III, it did not go into City Officers, that was just the title, secondly it was based on the notes of where they were going, some of the things decided last night contradict what was in this draft, so it would need modification.

Chairman Baines suggested they read through and comment on Section 3.01.

Commissioner Cook stated Section 3.01 put in the concept that they were grandfathering the City organization, and it could only be changed with a proposed change and 8 Aldermen voting on it, it did not answer the question Commissioner Lopez had about putting in the specific departments with their current roles.

Commissioner Shaw stated in Section 3.01 "until the Mayor shall propose" he did not think it was their intent that only one person could propose things, what if an Alderman wanted to propose the elimination of the airport? It was interesting that further down in that paragraph it stated "the Mayor may not propose" how could they tell a person he can not propose something?

Commissioner Cook stated that tracks the other language, so we would take out "the Mayor may/may not propose" in other words if we include any departments in the Charter, specifically, that would be all that would refer to.

Commissioner Shaw stated he thought all departments could be eliminated but what Commissioner Cook was saying was if some of them were established in the charter...

Commissioner Cook stated they had not decided that issue yet, but if they put something in the Charter saying we have to have a law department or City Clerk's department, then this provision will not apply to it, if we decide not to put specific departments in the Charter, that provision will be deleted.

Commissioner Shaw stated he thought they were using all the language that was in 3.01 already and only changing the last sentence "in exercising this power the Board of Mayor and Aldermen may not abolish any department established by this charter except by a vote of 8 aldermen", because the first part of 3.01 stated what they were allowed to do it was the last sentence that was the one that took away what they had

been allowed to do.

Discussion ensued regarding whether to put "8 or more Aldermen" or "8 or more Aldermen- elect".

Chairman Baines asked if they were going to leave it that way and just change the last sentence.

Commissioner Lopez stated in his opinion, he had looked at the last sentence that Commissioner Shaw just referred to, and thought they were going to change that sentence and leave the rest alone, the only other thing he felt strongly about was that the decision to eliminate or consolidate should not be done during a budget process.

Commissioner Cook stated when you look at 3.01 as it presently exists, you would want to take out any language that could be used to confuse folks, looking at the beginning of 3.01 "in addition to the departments listed in this article", if we take them out of this article, that may be okay, but we must be careful, because we were trying to grandfather in all of the existing departments, so if we keep that language, they will still be listed in the article, then we put in language that says except 8 Aldermen can change it, 8 Aldermen can change what? everything that's not listed or 8 Aldermen can change anything? That was why he rewrote it, when you begin from a legal matter at the beginning of 3.01 as presently written which was meant to set certain departments in concrete, which was not the direction this committee was going, the premise was different, their premise was not to change what was written, this committee's premise was, you've got what you've got until you change it.

Commissioner Shaw stated you put into 3.01 at the top something that might have been in 3.02.

Commissioner Cook stated if you look at 3.02 he did that.

Commissioner Lopez stated he felt they would have a problem if they do not list the departments in the Charter.

Chairman Baines stated they would list the departments in 3.02, and could they agree on 3.01 as submitted by Commissioner Cook and refer it back to the full commission?

Commss. present answered yes.

Chairman Baines asked that they move on to review 3.02.

Commissioner Shaw asked if 3.02 and 3.03 were different.

Commissioner Cook answered yes, 3.03 had not been decided on, and was being researched, if the Charter Commission decides to keep any, that is the stuff that is otherwise listed in the Charter, 3.02 says if the Commission decides.

Chairman Baines stated for example, there was a debate about whether the Charter should allow Assessors, Tax Collectors and Finance in one, the Commission needs to decide whether that was a prudent course of action.

Commissioner Shaw stated if they wanted to put them all in one room, with one department head, with all three departments still under that head, he did not know why that could not be done now if it was wanted.

Chairman Baines stated he thought it could be done now.

Commissioner Shaw stated he did not think they could do it in the sense they could not make the tax collector subservient to someone else.

Commissioner Lopez stated what could be done was to put all three departments together and have them report to one person.

Mr. Groulx stated he had a point of semantics, in 3.01 at the top that you could not reorganize or do anything to departments specifically provided by the Charter, but it was written again in 3.02.

Commissioner Cook answered it was probably a typo and would eliminate it.

Commissioner Lopez asked why couldn't it state "in addition to the above powers, by a vote of 8 Aldermen" everything was understandable up until that point.

Commissioner Cook answered everything was not understandable in the old Charter, well, it was understandable but was not the system being talked about.

Commissioner Lopez stated what he was saying was, if you look at the old Charter, he understood everything up until a certain point, and then that last sentence sort of deletes everything above, if you stop there and just eliminate the last sentence, and then come in with the 8 Aldermen.

Commissioner Cook stated you would not want to begin with the language "in addition to the departments listed in this article" because there will be a list of departments in the article, the way that provision reads, it was meant to prohibit the Mayor and Aldermen from changing them and it would create a latent ambiguity, up top says it can't be changed, then below it says it can change,.

Commissioner Lopez stated okay.

Chairman Baines addressed 3.04

Commissioner Cook stated he changed that and proposed the following "unless stated otherwise in this Charter, each department of the City shall have a Board or Commission made up of the same number of Commissioners as exists on the date of adoption of the Charter or if there is no such Commission there will continue to be no such commission".

Chairman Baines asked if that would create a problem in reference...

Brief discussion ensued regarding whether or not they should note the specific numbers of Board or Commission members.

Chairman Baines suggested they list the Board or Commission numbers.

Commissioner Cook stated he would revise it to include the specific numbers.

Chairman Baines addressed 3.05.

Commissioners decided to refer 3.05 back to the full commission.

Commissioner Shaw stated you could not just say the "right of the Mayor" it would have to be the right of the Mayor and the Board of Aldermen in 3.05.

Chairman Baines stated they were going to discuss that with the whole commission.

Commissioner Cook stated they said that the stronger Mayor was going to be able to direct the administrative action of the departments.

Commissioner Shaw stated but if the Aldermen in their wisdom, wish to send out a directive to the department, not even the Mayor could interfere with that.

Commissioner Cook stated they could say "the Mayor to direct administrative actions or the Aldermen to set policy" there's a difference between administrative activity and policy.

Commissioner Shaw stated but if the Aldermen say to a department...

Chairman Baines stated that will not be dealt with here, the power of the Aldermen will be someplace else.

Mr. Groulx stated some of this stuff will come up again when you do the powers of the Mayor.

Commissioner Cook stated he could take out the last sentence, he only put it in for emphasis.

Mr. Groulx stated the same for 3.06, when you do your drafting you'll need to go back to it.

Commissioner Cook stated he did not agree, because that's how a commissioner gets appointed.

Mr. Groulx stated it was his interpretation that the Charter was going to let the Mayor make almost all appointments.

Commissioner Cook answered yes, with confirmation by a vote of at least 7 Aldermen.

Commissioner Shaw asked if they addressed the part about if the position is not filled, the Aldermen can fill it, because in that case it would take 8 Aldermen, because the Mayor has the right...you can't have 7 voted under one condition and 8 under another, the Mayor has the right to veto, and votes in case of ties.

Chairman Baines stated he felt the sections should be specific because if someone was looking at the Charter to see how commissions work, or at what the powers of the Mayor were they would look just there, not everywhere in the charter.

Commissioner Cook stated to his credit he thought he had done this whole thing without using the word "his" once.

Chairman Baines stated Bob's point about seven aldermen was important.

Commissioner Cook stated he thought the point had to be unless the appointment is made under 3.07, he thought he was right.

Commissioner Shaw stated he could veto and could even vote in the case of ties.

Chairman Baines stated it had to be specific, he had seen on Channel 40 where they had gotten hung up on this issue of whether the Mayor could vote, and he recalled that the City Solicitor had ruled that there had to be seven votes.

Commissioner Cook stated what he had added at the end of section 3.06, "unless the appointment has been made under 3.07" because he thought Bob was right that if it comes there they should at least talk about, under that one the Mayor isn't appointing.

Chairman Baines suggested they look at section 3.07.

Commissioner Cook stated he thought they had decided that they were three years with two year terms.

Commissioner Shaw stated it was RSA 49-5 says "and no vote can be cast or appointment made by the Board of Aldermen over his veto unless by a vote of two thirds of the aldermen elect" which means it would have to be eight.

Chairman Baines stated that was why the city solicitor ruled that way.

Commissioner Cook referred again to section 3.07 stating he thought he had it right, they had decided three year terms and two successive.

Commissioner Shaw commented lets say two successive terms, say somebody got done a year and a half and someone usually gets appointed for the balance.

Commissioner Cook stated they could say two successive full three year terms, so they could do another year and a half if they wanted.

Commissioner Cook asked if they had said two years between terms last night.

Commissioner Shaw and Baines stated the only thing they had heard was one.

Commissioner Cook suggested they leave it at one and see what they say.

Commissioner Shaw referred to the next section stating he did not think Commissioner Cook meant that the Mayor has reappointed the incumbent, that he serve.

Commissioner Cook stated he did. I am on the airport authority, 90 days goes by and he wants to nominate Bob Baines, my term is up, I am out. But if he has nominated me for a new term, then what this says is if I am the incumbent, and I'm qualified to serve which means after my first term, or first whole terms, then why would you create a vacancy for two weeks, if he is going to reappoint the incumbent. What we are trying to do I think is.

Commissioner Shaw was curious noting the Mayor did not reappoint people to committees, he can only nominate.

Commissioner Cook stated that they would change the word to nominate.

Commissioner Shaw stated Commissioner Cook's point is that if the person has been nominated to take his place the position is not vacant.

Commissioner Cook stated if the person has been renominated, but the Board hasn't yet voted on it for some reason, it does not become vacant so the Commission can continue his work. If that person is then defeated, he did not care, they could have it vacant until the person is reappointed.

Commissioner Shaw suggested they have a's, b's and c's.

Commissioner Cook agreed there could be.

Chairman Baines liked that idea.

Commissioner Shaw noted that there was a different intent in the second paragraph.

Commissioner Cook stated we want the Mayor to be able to appoint members of commissioners, but if the Mayor fails to appoint we have a problem with holdovers. The holdover question is an issue, and the holdover becomes the block. Conceptually, the fact that somebody is still there blocking any action from happening and blocking the person who has appointive powers from making the appointment is something that he thought was disruptive. For instance, if the nomination to replace him (Mr. Cook) to the Airport Authority hasn't been confirmed the seat is empty. I am going automatic, when my successor's been replaced, he did not think they had to say that. He gets nominated by the Mayor, the Mayor nominates him, they defeat the nomination. If you give them the power immediately, they will defeat every nomination, because they will want to appoint their own people. You can't do that so you give them another reasonable period of time to do it. So that theoretically it could be empty forever.

Commissioner Lopez stated if they could do this that was fine but he was not sure

they could do this. Commissioner Lopez asked how they could give somebody authority to do this , and then in turn take it away.

Commissioner Cook stated they give him authority to do it within a period of time, there was no prohibition in any statute, they were giving the mayor the power to appoint, and if he doesn't do it we are providing a mechanism for it to get done in the absence of the mayor doing it.

Commissioner Shaw wished to look at a different case stating because you were renominated to the Airport Authority the 90 days doesn't kick in. The aldermen don't want you.

Commissioner Cook stated then they defeat the nomination and the mayor has 90 days to find somebody else to do it.

Commissioner Shaw stated but he keeps reappointing you.

Commissioner Cook stated he supposed he could do that, he was sure there were ways to abuse any of these processes. The aldermen could keep voting no, and the mayor could keep coming in with somebody they don't like on the 89th day, and it takes them forever. Politically they are going to get together at some point.

Chairman Baines referred to section 3.08 stating this one was under membership limitations.

Chairman Baines noted "the mayor shall also seek broad geographical representation".

Commissioner Cook stated the Board of Mayor and Aldermen shall.

Chairman Baines stated they were just talking about commissions in this statement.

Commissioner Cook responded affirmatively.

Chairman Baines stated they also talk about adding another section stating "provisions shall be made for citizens to submit their names for consideration for

appointments to commissions." Commissioner Baines noted that this was a little thing but felt it would make a big difference, commenting that unless you are in the political circle it must be very difficult to be considered for a commission he would guess.

Mr. Groulx referred to wording from another proposal which had not been ratified "the mayor shall establish procedures to give reasonable notice of vacancy before they are filled and shall encourage nominations by citizens."

Commissioner Shaw stated he would rather have the wording shall encourage participation rather than nominations.

Mr. Groulx noted that they changed the wording a little and it says "the mayor shall establish procedures to give reasonable notice of vacancies before they are filled and shall encourage applications by citizens."

Members present concurred they liked that language.

Chairman Baines noted they would move on to removal for cause.

Commissioner Shaw stated he did not like 7 or 8, he thought they were going around the fact that it almost means that you have to have two thirds of the Board.

Chairman Baines and Cook liked 8, and Chairman Baines noted that they were being consistent about what they were saying about there being a need to develop a strong consensus to do anything.

Mr. Groulx asked if it should read removed by the mayor.

Discussion ensued where Commissioner Shaw stated it should be the mayor to initiate, but Chairman Baines commented that an alderman may wish to propose. Commissioner Shaw concurred, noting the removal required eight but questioning how one gets their name up for removal.

Commissioner Lopez commented by the Board of Mayor and Aldermen.

Commissioner Cook noted that presently it has generally occurred through forced resignation. It was noted that it had not happened very often.

Chairman Baines felt it was fine the way it was because it had to be introduced by resolution.

Chairman Baines noted that they had spoken about the Florida situation last time, and they needed a section 3.10.

Commissioner Cook noted that the Florida situation was not a residency issue but one of if a number of meetings were missed because the person was in Florida. Commissioner Shaw concurred it was attendance. Discussion ensued where Commissioner Cook suggested that they could say something like except for reasons of health.

Mr. Groulx read from another one saying "if any member of an appointed board, commission, or committee, fails to attend one-half of the meetings held by such board, commission or committee during the calendar year, the municipal council may declare the office of such member to be vacant.

Commissioner Lopez stated that was alright with him. Chairman Baines felt one-half was too much. Commissioner Shaw said it should be less.

Commissioner Cook noted that one could have a job that says you are going to be somewhere at a particular time. He is on a board in Concord, that meets on Tuesday nights this spring and he has been at the Charter Commission every single time, but they have given him an excused absence.

Discussion ensued where Commissioner Cook and Baines suggested the same language but with one third, but Commissioner Cook noted that the problem with one third on a calendar year is you don't get there until the end of the year and the one third missed may have been the first part of the year which is the Florida issue, and then comes a consecutive issue and then they say that they are not going to remove them because they were at the last eight meetings and immediately afterwards you are going to miss four.

Chairman Baines noted they could say to be a member of a commission or board you have to be a year round resident of the city.

Commissioner Cook noted that there were other requirements such as on the airport authority one member is required to have an active commercial pilot license. This guy is a good guy but he misses a ton of meetings because he is up in the air.

Commissioner Lopez suggested they could put it on petition of a commission. Commissioners Baines and Cook thought that would not happen.

Mr. Groulx stated that they could put after the one third or misses x consecutive sessions, suggesting language as follows: "if any member of the commission fails to attend one third of the meetings or misses four consecutive meetings held by such commission during a calendar year "...the Board of Aldermen may declare the office held by such member vacant."

Discussion ensued where it was concurred that it should read "regular meeting".

Chairman Baines stated Commissioner Cook would work on that and return next week.

General discussion ensued about the MHRA and the MTA and the fact that they were not referenced. Commissioner Cook commented on a hearing he had attended in Concord for labor relations where there was a week of testimony regarding the establishment of the MTA and whether or not they were a public employer.

Members then discussed putting both MHRA and MTA into the listing for purposes of appointing the commissioners.

Commissioner Cook noted that there was a federal statute that allows the establishment of local transit authorities because they had to be established a certain way to get the federal monies. We had a bus organization in this city and that organization succeeded it, we went from private to quasi. Whether they are a city department he could not tell them.

Commissioner Lopez stated maybe they should ask that question and noted that they

were talking about commissioners, and about the fact that the Mayor has the direct appoint to the MHRA without any approval. Commissioner Cook noted this came from federal law. Commissioner Lopez continued stating that the point being that the commissioners were appointed to the MHRA and the MTA for the interest of the city.

Chairman Baines commented that they would have to ask Tony Simon whether they could look at the MHA and MTA in terms of appointments. Commissioner Cook noted both in terms of commissioners and in terms of appointments and as to department reorganizing. Commissioner Cook noted that they were not in there now and if they put them in there were they violating some federal law.

Commissioner Lopez stated he was not necessarily referring to putting them as departments but dealing with them in terms of commissioners.

Commissioner Sullivan arrived and Chairman Baines noted that they had looked at section 3.10, appointments, department heads. Commissioner Cook stated he tried to put in all the language that people wanted. Chairman Baines noted Commissioner Stephen would like this.

Chairman Baines stated that the section would now read "Department heads shall be nominated by the Mayor based upon merit and after due consideration of qualifications... Discussion was interjected in terms of a vote of seven or eight aldermen being required. Commissioners Sullivan, Shaw and Cook all noted a majority vote. Commissioner Shaw noted that if he failed to nominate then it would require eight votes. If the aldermen nominate they need eight votes.

The commission members then reviewed verbiage.

Mr. Groulx noted that they had said the commissions were advisory and here they were now saying policy was set by them, it appeared to be inconsistent.

Chairman Baines noted that they had not settled that point as yet.

Commissioner Cook noted that what they meant by advisory, they meant they were policy boards, he thought advisory was a word they would want to get rid of, and

say policy setting only not advisory only, there was a big difference.

Discussion ensued where it was suggested wording to the effect of establishing policy and advising the department heads or board of mayor and aldermen. Commissioner Cook was going to go back and work on the verbiage.

Chairman Baines returned to item a, then item b, then moved on to item c, supervisory authority. There were no comments.

Chairman Baines went on to item d. Commissioner Shaw noted that a man got fired because of this, Tony Simons got fired because of this.

Commissioner Lopez noted he had worked on 13 budgets over the years and his commission had looked at what was best overall, and now that they were an enterprise it was even more important, where the money was going to go, giving the example of before Clem Lemire retired he had x number of dollars for the JFK and had a project that was not completed at Gill Stadium which was more important for the city to put the lights at Gill Stadium to bring regional and world series to Manchester.

Commissioner Cook stated he understood what he was saying and asked how he would like the first sentence of section 3.05 to read after the word department "and on such other matters as the department head shall consult them." In other words the commissions would not have a right to do something unless they were asked.

Commissioner Lopez felt that the department heads should be submitting the budget to the commission if it were policy setting, the budget should be run by the commission. Other members did not agree.

It was concurred that they would have to work on this section.

Chairman Baines moved to the tenure of office. Discussion ensued where Commissioner Cook noted that what it means to say is, what he did not want it to say is once a mayor fires a department head and the aldermen say you can't, the person doesn't get lifetime tenure.

Commissioner Shaw asked how long he got. Commissioner Cook replied until the next time he gets fired, and they may keep him again or they may fire him.

Commissioner Cook stated you might want to say in the event that a mayor wants to fire a department head and the aldermen vote no, the mayor won't fire him this week and will have to wait two weeks or a month or whatever. They needed to give the mayor the right to hire and fire and have the aldermen intercede if it isn't fair.

Commissioner Sullivan stated it should say that any time a Mayor tries to remove a department head, the department head shall remain in office until 5 or more Aldermen, or something...

Commissioner Cook stated no, the Mayor fires someone, they are fired.

Commissioner Sullivan stated you have to address that interim time.

Chairman Baines stated this was an issue that will be tough to develop a consensus on, it would either have to be that the Mayor could fire outright or recommend to the Aldermen that someone be fired. He felt there would be more consensus for the Mayor to recommend.

Discussion ensued regarding the fairness issue, when the firing would take effect.

The Commissioners agreed this was a big issue that would need to be discussed further at another meeting.

There being no further business to come before the Drafting Committee, on motion of Commissioner Shaw, duly seconded by Commissioner Cook, it was voted to adjourn.

A True Record. Attest.


Clerk of Commission

CHARTER REVIEW COMMISSION

JUNE 4, 1996

5:30 PM

Chairman Pappas called the meeting to order.

Commissioner Sullivan called the roll.

Present: Commissioners Pappas, Cook, Lopez, Shaw, Stephen, Sullivan

Messrs.: John Groulx

Chairman Pappas advised the Commissioners that they had minutes to approve from 4/23/96, 4/24/96, 5/1/96, 5/7/96, 5/8/96, and 5/14/96. Commissioner Stephen stated he would like to make a correction to the minutes from 5/7/96, page 4, last paragraph, should be Commissioner Cook speaking, not Commissioner Stephen. On motion of Commissioner Sullivan, duly seconded by Commissioner Stephen, it was voted to approve the minutes with the correction to 5/7/96.

Commissioner Cook advised that the drafting committee had discussed every item on their agenda, but were awaiting answers to the questions that had been forwarded to Tony Simon. He asked if someone could speak to Tony Simon to ask if he could expedite his answers for the drafting committee to move forward.

Commissioner Sullivan suggested that Commissioner Stephen call Tony Simon.

Commissioner Cook stated they could not move forward with the drafting unless certain questions were answered regarding the Water Works, School Department and other issues.

Commissioner Shaw stated if they want the Library and Water Works to be departments, they should find out what laws they need to change.

Commissioner Cook stated it's not what we want, it's what the law requires, if

anything, there could be some specific statutes.

Commissioner Shaw stated even if the law stated something or did something with any of the departments, he did not know why they could not declare them departments, the law in Concord did not declare them X, it just stated they were something.

Commissioner Sullivan stated she was not sure about the Water Works and the School District, but regarding the Library, the issue we need to resolve was whether we tax all the assets and everything, she was unsure whether they could just declare it, if it's a department, fine, but the Commissioner cannot alter a legal entity if it exists.

Commissioner Cook stated he believed some of this was semantics, that they could safely say that every subdivision of the City is a department, the question was did any of those departments have legal characteristics or requirements outside of the city's jurisdiction that mean when we handle them in the charter we need to make some reference to that, or give them special definition to make them consistent with the law.

Commissioner Shaw stated the only thing for the Library would be whether they can nominate their own directors, we want the Mayor to be able to nominate all commissioners, and if the Library Trustee is a commissioner or director or trustee, maybe State law says how you should elect or appoint.

Commissioner Cook stated maybe it says that there should be seven of them and they appoint themselves, like the Manchester Housing Authority apparently has a Federal Statute that says the appointment is solely the Mayors' and there is no confirmation.

Chairman Pappas asked if they could list again the questions asked of Tony Simon.

Commissioner Cook stated Commissioner Baines had a bunch of questions that he referred to Mr. Simon after the first meeting, one was Water Works, all of Commissioner Baines questions, which were two sets, then there were two or three more questions that came up at a subsequent meeting.

Commissioner Sullivan stated she wished to discuss the issue of the at-large Aldermen, perhaps they could discuss it further .

Commissioner Shaw stated that was a good point, and it goes back to the agenda, which did not give any reason to meet, he would like to see items listed on the agenda to give the commissioners a chance to prepare for what would be discussed.

Chairman Pappas stated they thought they would have a lot more to discuss, not realizing they still had no answers from their legal counsel.

Commissioner Cook stated the portions of the charter he was assigned to work on, the drafting committee went over them last week and made improvements, he would like the drafting committee to read those changes to be sure they were done before the entire commission began looking at it.

Commissioner Lopez asked if they were going to wait until they meet before they receive a copy of the draft from the drafting committee or would it be sent by mail.

Commissioner Cook stated his preference would be, to have the City Clerk send them out with the agendas so everyone could read them at home before the next meeting.

Commissioner Shaw stated the drafting committee should address the charter page by page and start finishing some pages so we would know where we stand.

Chairman Pappas stated they better look at the calendar again, because they have a deadline to face.

Commissioner Sullivan stated with the preliminary report due July 19, she would like to see the draft revised charter put together by the end of June, which would give them 19 days to debate and make any changes before issuing the preliminary report. They had not yet discussed what they would put into the report, such as if it turned out that the Library could not be a department and the commission felt that it made sense to have legislation changed to make that possible, then they might want to put that in the report.

Commissioner Baines and Dolman arrived.

Commissioner Sullivan asked if it made sense to everyone to have the drafting done by the end of June.

Commissioner Cook stated he did not think the report that accompanied the draft had to be terribly long, obviously there would be some things in the present charter that would not change.

Commissioner Lopez stated there was nothing in the draft regarding the enterprise system, like the Parks and Recreation where the commissioner is in charge of the enterprise system.

Commissioner Cook stated there were a couple of sections for further consideration of various departments, which means that is still an open issue.

Chairman Pappas stated to bring Commissioner Baines up to date, they would like to go over any remaining issues.

Commissioner Shaw made a motion to include 9 Aldermen, non-partisan, elected at large.

Commissioner Sullivan seconded the motion for discussion purposes.

Commissioner Cook stated in Nashua, they have 15 Aldermen, 1/3 of whom are at large, he had spoken with two of them, one at large and one from a ward, they both said that the system works tremendously well, because the at large aldermen are not distracted by solving the problems of people in a certain geographical area, therefore they were able to undertake certain duties on the Board that were not hindered by the time being taken up by the potholes, etc., and they had not interfered with the Mayor's authority, and have not had their at large aldermen run for Mayor. The functions and the representation of the whole City and having more than one person who goes around the City and knows the whole City and can bring the information from the City has been very helpful. If we were designing a new City, he would favor the Concord and Portsmouth systems which were what Commissioner Shaw's motion was, all at large from a relatively small number of

Aldermen. The reason that the all at large lends itself to a smaller number was so that there was a fighting chance for people to have a knowledge of the people they were electing. The Manchester system, he would like to go to a system with a City Manager and a few at large aldermen who really ran the place efficiently, but any system of government evolves, and he felt they should integrate the at large concept but not replace what we have, because people were used to having their aldermen. He thought they should integrate non partisan elections with a couple of aldermen at large.

Commissioner Dolman stated as a former aldermen he knows the difference between how the people perceive their aldermen, that they should take care of every problem, he was leaning towards at large, his only fear for at large was the cost factor for running for election, would the cost eliminate a common person who might not be able to afford to do that from running, and whether there would be strong representation in one ward but not in another, his reason was that many people in the center city do not vote, they need a voice to be heard, but they need it even more so, he was afraid they would have no representation if they elect three people from the same ward.

Commissioner Sullivan stated she preferred at large, and people she had spoken to felt the same because as a voter, there would no longer be one person to call if they had a problem, there would be nine, secondly, perhaps have the aldermen have someone who could help them field the constituent complaints, third, a lot of the reasons for having geographic representation, at the time it was designed things were a lot more localized than they are today, as far as the financial aspects, it might discourage some people from running, but with nine open seats in a City this size, that could still be made up by going out and talking to people, and spending relatively little to get their name out there, the benefits of going at large would outweigh the negative, as for the issue of ward 1, the charter commission election was at large and there was only one person from ward 1 elected.

Commissioner Dykstra arrived.

Commissioner Sullivan stated it did not look like there was a lot of support for going all at large, so she could retreat from that but felt there should be at least some at large, she felt an at large group would be good for the City, but did not feel that

going up to 15 aldermen would be a good idea, maybe keep it at 12 but have four aldermen, one from each of three wards, 8 at large.

Commissioner Baines stated he was opposed to having 9 at large, but felt there should be 12 from the existing wards with 2 at large.

Commissioner Stephen stated he thought that they should have a long range view in terms of revising the Charter so to give the Mayor a little more power, he would not be opposed to looking at at large in a limited sense, and felt 12 aldermen is enough.

Commissioner Shaw stated that was a good point, 12 was enough, if there was 12 wards we could not have at large. The aldermen did not know how to be on a Board of Directors, they should not have to spend their time having potholes fixed. The aldermen were the only ones in the entire system that should not be protected, the commissioners were trying hard, but the aldermen do not know what their responsibilities are, and the charter gives no responsibilities in a real sense to the aldermen.

Commissioner Lopez stated he was not for 9 aldermen, and though the people would reject it because they want their own aldermen in their own ward, two at large would be okay if someone could convince him what the two at large were supposed to do.

Commissioner Dykstra stated the two at large, if they were doing more work and covering more territory, would they be paid more than the other aldermen? She felt they should keep the 12 and did not see the need for two at large, they should take the \$10,000 or so that would be their pay and add it to the Mayor's salary.

Commissioner Sullivan stated it was unfortunate that they have a golden opportunity to do something to change attitudes toward our City government, people who think that our existing structure does not work very well, that the City is not progressing towards the future, and who watch aldermanic meetings on channel 40 and do not like what they see, if they leave the aldermanic structure as is, they would give up the opportunity to do something positive for the City which is to provide a more long term policy approach to the problems that were facing Manchester. Looking again at the budget situation that the City finds itself in, here we were in June, the

budget is not settled, we're cutting the school budget by millions of dollars, these things haven't been addressed, there was a lack of a long term approach towards the City which was what the aldermen should be doing because unfortunately they were tied up taking care of constituent concerns and did not have the help they should have, like their own administrative person, and this is an opportunity to fix a real problem which was a lack of long term forward thinking progress in the City of Manchester, we would be making a mistake if we did not do something to get some at large people on the Board of Aldermen. Non partisan was a good step forward, but if that was the only thing this commission does, then we have not done our job.

Commissioner Dolman stated he agreed with the long term thinking issue, but agreed with Syl Dupuis when he said they could have someone sitting in that head office who had a long term plan, that was the person who had to have that, some of the aldermen, given the opportunity, would have a long term plan, but there was no communication from the Mayor to them.

Commissioner Baines stated he had spoken recently with an aldermen about all the concerns that the aldermen was responding to, and he questioned why the alderman was not directing the constituents to the proper departments with the option of calling back if the problem was not cleared up, these aldermen were solving the problems that the professional staff of the City were prepared and able to do. He felt some of the aldermen were doing a lot of things they really should not be doing but did not know how to get at that issue, but that was why in his opinion the City was in the dumps because the aldermen were busy "fixing potholes", as opposed to looking at what was needed to move the City forward. He was for doing whatever they could do to shake up the system.

Commissioner Shaw stated the aldermen in Portsmouth and Concord were worldly, and if they wanted to copy some progressive things that were happening, they would need to look at what Portsmouth or Concord was doing as far as discussing issues.

Chairman Pappas stated she had also spoken with people in Nashua and heard very good reports about their system.

Commissioner Cook stated if they were trying to devise a system, with the aldermen as the Board of Directors, and without depriving them of the checks and balances,

perhaps they should put something in the charter in the aldermanic section, that stated the basic role and duties of the aldermen, with the guidelines in place a lot of the other stuff would follow.

Commissioner Sullivan stated assuming they come out with 12 aldermen with some consensus for at large, what about having 3 at large so there was not a situation where the Mayor would have the tie breaking vote.

Commissioner Shaw stated that was State law.

Brief discussion ensued regarding veto power, state law, etc.

Commissioner Baines suggested they vote on 9 at large and either put the matter to rest or keep it alive.

Commissioner Lopez stated in the preliminary report, it might be true, but that was a way to get a feel for it, if there was an outcry from the preliminary report, then they could go back to the twelve.

Commissioner Dykstra asked for clarification on what they were about to vote on.

Commissioner Shaw answered 9 aldermen at large, voted on in a non-partisan manner.

Commissioner Dolman stated they had never voted on anything, maybe they should just get a consensus and send it to the drafting committee.

Brief discussion ensued on whether or not to vote.

Commissioner Sullivan and Shaw were in favor.

Commissioner Pappas, Baines, Cook, Dolman, Dykstra, Lopez, and Stephen were opposed.

On motion of Commissioner Baines, duly seconded by Commissioner Cook, it was proposed to have two at large aldermen, keep the twelve wards and have two at

large aldermen and two at large school board members.

Commissioner Sullivan stated she did not think two at large was enough.

Commissioner Shaw stated the only reason to add two at large was because they did not want to modify how the twelve were presently constituted, what would two more members on the Board do that twelve cannot accomplish.

Commissioner Cook stated that was true because they should not get stuck in what the present system cannot do, they were trying to devise a system that sends two messages, one was the role of aldermen, which Commissioner Shaw addressed very well, the other was that the role was reinforced by having a couple of people with a citywide view to reinforce the idea of change. If we keep the present system, we will keep the results no matter who the twelve aldermen are because there is a lot of momentum behind it. The people sitting there and the constituents would be doing exactly what they have always done when they pick them. One of the problems with three instead of two, if people think that all of the at large and aldermen were going to come from one of the wards, more of them would be more dangerous than fewer of them.

Commissioner Dykstra stated being an aldermen she did not want anyone telling her what to do for her constituents. She thought they were elected by the people who expect you to be there for their problems be they minor or major. As an aldermen you have to have some of the perspective of citywide, when you are an aldermen, you represent your ward, but when you vote on budgets or taxes and other things, these all are citywide issues, not just what happens within the ward. She did not want some other two aldermen to come in and say "okay, I've got a citywide view, now I know more than you do". They should all be on equal basis, they are elected by the people and in order to get reelected they must serve the people well.

Commissioner Sullivan stated she was baffled, and did not know where Commissioner Dykstra got the idea that anyone was going to tell anyone else what to do. The purpose of the two at large aldermen was to have two things, one, the present system does not work, this City is in trouble, and they have to do something to get some creativity, long range planning, whatever, secondly, to get away from the way the City is structured, not a question of people telling the aldermen what to

do, maybe part of the problem is the aldermen have to spend so much time on constituent services they do not have the time to look at the issues that face the city.

Commissioner Lopez stated the problem is the democrats and republicans, and defining the responsibilities of the aldermen would be a plus, because they do not know what they should do, in essence the problem was the fighting amongst democrats and republicans, so the person elected in a non-partisan election would have to stand up for what counts for the City rather than going along with one party or another.

Commissioner Baines stated what Commissioner Lopez stated was true, they would be putting a concept out with the preliminary report, and have a hearing, with all these concepts that this commission thinks are good, they may be rejected in the preliminary report, he felt they should get the at large issue out there.

Commissioner Cook stated that under the present system the aldermen learn what was expected of them. For many reasons, they should define it properly and change it because there was no reason why if someone had a pothole they should call their alderman when we have a highway department.

Commissioners Pappas, Baines, and Sullivan voted in favor of 12 aldermen +2 at large, Commissioners Shaw, Dykstra, Lopez, Cook, and Dolman voted against and Commissioner Stephen abstained.

Commissioner Lopez stated they have not decided whether it was going to take 7 or 6 Commissioners voting in favor to do something, that was his point about 5 people going to the drafting committee, the procedures have not been set, that was why he would like to get all 9 before they do something, this motion business is going to be hectic until they see what the writing is going to be.

Commissioner Stephen stated he recalled Commissioner Shaw stating that if something is 6 to 3 and he was in the 3, he would turn over into the 6.

Commissioner Shaw stated what he said was he would not oppose a charter change if he was in a minority.

After general discussion it was decided that a vote of 6 would enable an issue to go before the drafting committee.

On motion of Commissioner Baines, duly seconded by Commissioner Sullivan, it was voted that all city elections be non partisan.

All Commissioners voted in favor except Commissioner Dykstra, who abstained.

Commissioner Lopez stated he hoped it would not be 6 votes on the final decisions.

Commissioner Baines suggested they discuss the term issue.

Commissioner Cook stated for the clarification of the Commissioners who arrived late, that before they arrived they had discussed the two kinds of open issues, those they could not discuss because they did not have enough people and those they could not discuss because they were awaiting answers from Tony Simon.

On motion of Commissioner Lopez, duly seconded by Commissioner Baines, it was voted to keep two year terms for aldermen and school board members.

Commissioner Sullivan voted against two year terms.

Chairman Pappas addressed terms for commissioners.

Commissioner Cook stated the consensus was that there be geographic representation and the Mayor come up with a program to get citizen involvement.

Commissioner Dolman made a motion that there be no more than one member from any ward on any commission.

Commissioner Sullivan stated she would second that with an amendment.

Commissioner Lopez moved to table the issue on the grounds that it was in the drafting committee already and they had not seen the draft portion of it. He wanted to see the whole thing before he decided to vote.

Commissioner Sullivan asked Commissioner Dolman to amend his motion to no majority of any commission from any one ward.

Commissioner Shaw stated that would be three.

Commissioner Baines stated at the drafting committee they had discussed this issue at length, Commissioner Cook was composing language to address that, specifically to have the Mayor establish a process to allow people to apply for consideration for commissions, they felt that process would take care of that issue, the drafting committee's feeling was that some of this may happen because people know certain people. If an opening came up and people knew they could submit their names for consideration, it might be surprising how many would apply.

Commissioner Dolman agreed, and would accept that, however, he had a problem with a majority of any commission being from one ward.


Commissioner Sullivan stated she believed they should put some limitations, because it could still happen where an entire commission would be from the same ward.

Commissioner Cook stated he had no problem with a majority not being from the same ward, but suggested he incorporate that concept into his draft.

Commissioner Shaw stated the enterprise system was a way to take away the responsibility that department heads should have in answering to the Mayor and Aldermen.

There being no further business to come before the Charter Review Commission, on motion of Commissioner Cook, duly seconded by Commissioner Sullivan it was voted to adjourn.

Respectfully submitted,



Kathleen N. Sullivan

CHARTER REVIEW COMMISSION DRAFTING COMMITTEE

June 5, 1996

5:30 P.M.

Commissioner Baines called the meeting to order.

There were Four Commissioners present. Commissioner Shaw arrived late.

PRESENT: Commissioners Baines, Cook, Shaw and Sullivan.

Commissioner Baines stated: We acknowledge that we have three members of our Commission present.

Commissioner Cook stated: How many are on the Drafting Committee?

Commissioner Baines stated: Four. What I would like to do is deal with Brad's work - that we received today.

Commissioner Cook stated: No, this is the work you did - this is the work you did not receive today. This is the hanging work from last week.

Commissioner Baines stated: Okay. Why don't you just take us through this, Brad.

Commissioner Cook stated: If you are here you can have one. If you are not here, you can't have one. This is last week's - Read the memo on the front, because it summarizes what is going on. The attorney that you took -

Attorney Simon stated: That is what I was worried about, yes - I assumed that -

Attorney Simon stated: That is what I was worried about, yes - I assumed that -

Commissioner Cook stated: I assume people have asked you for your reports by next week -

Attorney Simon stated: No.

Commissioner Cook stated: Nobody called you today? Toni [Pappas] didn't call you today?

Attorney Simon stated: Toni [Pappas] called me today and asked me to be here.

Commissioner Cook stated: No that was not the required [sic]. The request was not for you to be here tonight - The request was for you to please have answers to all of our questions by next week -

Commissioner Sullivan stated: But I am glad you are here, anyway.

Commissioner Cook stated: But we are glad you are here. That was not the request -

Commissioner Sullivan stated: Brad is used to being managing dictator -

Commissioner Cook stated: No, I am not - I spend all day saying, "Anything you want is fine with me." Just like at home. So anyway, because of what we did last night, we had some issues that are left in here. This has all of the changes that we made last week, like - and I have dated this June 5th draft on here - Unfortunately, this is on the home computer and not the office computer, but - The first paragraph I think is the same. [Section] 3.02 is the one that is going to have to have the list on it later. [Section] 3.03 is the one that we still have to bring up to the full Commission, "Do we want to have certain departments set in concrete?" Some of those are waiting on Mr. Simon's opinion on whether there are departments that have separate and special existence, because if we are required to have some we better darn well say we are required to have some - And then some questions - Are we going to put in something that says we are, you know, we - either as an officer or as a department - are we going to have a law department, are we going to have [a] City administrative assistant type of

Commissioner Baines stated: Okay, are we just going to talk about [Section] 3.01 right now, Brad, or is that what you -

Commissioner Cook stated: You can - That was - That was not something we said we were going to change, last week.

Mr. Groulx stated: Well you made some changes that resolved that -

Commissioner Cook stated: Well I tried to - No, we took out some stuff -

Commissioner Baines stated: How about that last statement? Are we back to where we were with that last statement?

Commissioner Cook stated: No. The last one - The last - The specifically - The departments specifically established by the Charter are the [Section] 3.03 ones that we have not decided whether we are specifically establish or not -

Commissioner Baines stated: Okay.

Commissioner Cook stated: If we decide not do any in [Section] 3.03, either because we do not have to, or because we do not think that we should - then, there will not be anything in that and we will probably take it out.

Commissioner Baines stated: Yes. I just think that for clarification we may need to reference specifically [Section] 3.03 there, because I can see where some people could interpret that -

Commissioner Sullivan stated: Yes, yes -

Commissioner Cook stated: That is fine. I think that that is a good idea and I think that we should do that. Yes - By Section 3.03 of this Charter -

Commissioner Sullivan stated: Established by Section 3.03 -

Commissioner Baines stated: - by Section 3.03, that they could say, "well, it refers to the list" (inaudible) -

refers to the list" (inaudible) -

Commissioner Cook stated: Of this Charter. Yes, no - and that is something we tried not to do.

Commissioner Baines stated: Okay.

Commissioner Cook stated: In [Section] 3.04, there was a problem in [Section] 3.04 as I had written it last week, which John picked up very nicely in saying that I was requiring that every department have a Board of Commissioners, even the ones that do not have them now - I had also picked that up, but it was - It was not what we were trying to do, needless to say.

Commissioner Baines stated: And we will not say later on in the Charter the number of Commissioners that are on those Commissions, right? So that you do not have to go back and search to find out how many people are (inaudible) -

Commissioner Cook stated: We could.

Commissioner Baines stated: I think that you are going to have to because, as a historical document, I would think, you would want (inaudible) -

Commissioner Cook stated: Well, we might want to put in the transition section for reference - these - then we could put a list there. We could put a list there just like we put a list in [Section] 3.02.

Commissioner Sullivan stated: Well, yes - You know, would it - And that is just stylistic, I guess - I wonder if you could sort of kill two birds with one stone - in [Section 3.02], and say, "department, Commissions, number of Commissions," you have one reference to what exists as (inaudible) -

Commissioner Baines stated: I think we need to deal with though - I think John has -

Mr. Groulx stated: I was just going to - If you, in [Section] 3.03 establish a statute, for you know, like zoning - planning and (inaudible) that in -

Mr. Groulx stated: But if you did all of the statutory ones, or you don't even need to, really - then you could just - you could list the number that you wanted.

Commissioner Cook stated: No, we said - Remember, we were in here and we said - The first draft said, "Every Commission should have five members," and that got shot down -

Mr. Groulx stated: Oh, okay -

Commissioner Cook stated: And people said, "no you don't want to do that, what is wrong with just keeping the number that we have presently," and nobody could come up with any reason whether there was anything wrong with having the number that we have now -

Commissioner Baines stated: So we are just going to figure out how to mention it -

Commissioner Cook stated: So we can either put a list here or we can include it in the list in [Section] 3.02 -

Commissioner Sullivan stated: Right. Either way, yes. Whatever is easiest.

Commissioner Cook stated: I will make a note here that, "list to be inserted." We changed "advisory" to "policy only," for Commissions -

Commissioner Baines stated: Tony, you had a comment -

Attorney Simon stated: Well, I guess, Brad, I am struggling with my role here.

Commissioner Cook stated: Well since we did not know you were coming, I did not know that you had one, but -

Attorney Simon stated: Okay, well - And then, maybe I don't, and if I don't, that is fine, shut me up. But, in [Section] 3.05, "each Commission shall have authority over policy issues and shall advise department heads, the Mayor and Aldermen on policies appropriate for the department." You have given them authority but you have made it - which is not clear - but then you have made them advisory.

over policy issues and shall advise department heads, the Mayor and Aldermen on policies appropriate for the department." You have given them authority but you have made it - which is not clear - but then you have made them advisory.

Commissioner Cook stated: No. Well, that is - When - I will tell you how I envisioned this process working. There is nothing magic about this process. We are the Drafting Committee. We came here once, we went over the first draft, we have done the second draft, we are going to take it to the full Commission next week. After the full Commission signs off on things, then we are going to send them to you.

Attorney Simon stated: Okay.

Commissioner Cook stated: I see what he did - Well that language got picked up from -

Commissioner Sullivan stated: Yes, well, you know - What if you took out - What if it just read, "Unless stated otherwise in this Charter, each Commission shall advise the department head, Mayor and Aldermen on policies appropriate for the department."

Commissioner Cook stated: That is fine with me. Take out "have authority over policy issues and shall" -

Commissioner Sullivan stated: Yes, and you say, "they shall advise," blah, blah, blah, on "policy issues."

Commissioner Cook stated: Okay.

Commissioner Sullivan stated: Then I think that it is really clear that it is advisory, and specifically, "no responsibility for personnel decisions or administration, unless it is specifically requested by the Mayor" -

Commissioner Cook stated: And that is only to be in - help with nominations.

Commissioner Sullivan stated: Only nominations, yes.

(inaudible) if we are not clear it is subject to interpretation by a lawyer
(inaudible) -

Commissioner Shaw stated: What page are you on that he is objecting to?

Commissioner Cook stated: We are on the first page -

Attorney Simon stated: Well, again -

Commissioner Baines stated: That is right. Bob Shaw is the only one who agreed with me on that statement, and said, "if we are not clear, the language will be subject to interpretation by a lawyer," and I find that very scary. Now you agree with me on that -

Commissioner Cook stated: I agree with that, too, as a matter of fact.

Commissioner Shaw stated: If fact I was hoping that we - you would -

Attorney Simon stated: Well yes. And I don't disagree. I do [sic] back to my camel analogy.

Commissioner Shaw stated: - remember on ethics he defined some words, and I thought that would be interesting to maybe even put some definitions in the thing, I don't know, but not shall - shall -

Commissioner Cook stated: No, they are in there. Ethics is in there -

Commissioner Shaw stated: I know, but I am just saying that those - No, I meant the definition of words in here -

Commissioner Cook stated: We have closeted the ethics - we - I mean -

Commissioner Baines stated: Bob, could you look at Section 3.05 and see if you agree with what we have done here?

Commissioner Shaw stated: [Section] 2.05?

agree with what we have done here?

Commissioner Shaw stated: [Section] 2.05?

Commissioner Baines stated: [Section] 3.05 -

Commissioner Cook stated: [Section] 3.05 - bottom of - All we have done so far, is add [Section] 3.03 of up here to make it very clear what we were talking about.

Commissioner Shaw stated: What does, "unless stated otherwise in this Charter, each Commission shall have authority over policy" -

Commissioner Cook stated: No. We are talking out the words, "have authority over policy issues and shall."

Commissioner Shaw stated: I would not have a problem with that, if I knew what policy meant. I asked Mike yesterday. It is the policy of this Parks Department that the Parks in the South end of Manchester be cleaned first. And - So, by setting policy, doesn't a person set, you know, I mean, tell the department head what to do?

Commissioner Cook stated: Well, I think that is further defined by what it says later.

Commissioner Shaw stated: Oh.

Commissioner Cook stated: Because it says what they also cannot do. - can't mess with administration.

Commissioner Shaw stated: The only other part I would say, "by the Mayor and the majority of the Board of Aldermen." You know, in other words, that directive thing - The Mayor -

Commissioner Cook stated: No, since the Mayor appoints, he may ask them to help be his nominating (inaudible). They can always reject it. That is just part of his - We have given him nominating authority.

Commissioner Baines stated: See under this - I am curious now. If I a Commissioner of Parks and Recreation, and I - like you said, "the policy of the Commission shall be to clean to clean the south end parks first," - They have the authority to do that?

Commissioner Sullivan stated: The department head does not have to follow their advise.

Commissioner Shaw stated: They why are you having Commissions?

Commissioner Sullivan stated: So that he has some public input - at least some public input -

Commissioner Shaw stated: Well you see, no - I am being an advocate - I am not trying to change -

Commissioner Cook stated: No, no - No, but it is a good point - A good point -

Commissioner Sullivan stated: I know - No, I understand. But I think - but that is - because people are going to ask that question. They are going to say, "why are you having Commissions at all?," and the answer is there is a need to have public input and participation.

Commissioner Shaw stated: And like when people say the Mayor doesn't have any sway over departments, he makes the budget, and therefore he sets policy as to what they are going to do -

Commissioner Baines stated: So they shall - Unless I am misunderstanding - Each Commission shall serve as an advisory -

Commissioner Cook stated: The concept is this - That I think we reached conclusion on. Commissions cannot run personnel, or administrative matters, period. They will advise - But we thought, collectively, regardless of what we thought individually, that having the citizen input that the Commissioners brought to the process and the expertise that they are able to develop and the fact that they can sit around and discuss these issues and advise on what the appropriate policy ought to be, is something that ought to be done in the City because the

thought individually, that having the citizen input that the Commissioners brought to the process and the expertise that they are able to develop and the fact that they can sit around and discuss these issues and advise on what the appropriate policy ought to be, is something that ought to be done in the City because the Mayor and Aldermen do not have time to figure that all out on every case and so they can advise department heads and the City on what the proper policy ought to be. We want to make it clear that they are not part of the administrative process. That they are part of the policy process.

Commissioner Baines stated: But would - Is it policies and procedures, or is that cutting it - The policies - See I am saying - If I am the Commissioner of Parks and Rec, and I have an idea on improving a procedure, I would go to my advisory committee and say, you know, what do you think of this? And -

Commissioner Cook stated: You have got an idea -

Commissioner Baines stated: Right -

Commissioner Cook stated: - and they - you want to bounce it off of them - There is nothing to keep anybody from saying, "you guys know how this department works, what do you think about the idea," and you can talk about it.

Commissioner Baines stated: Because if you - Because if you get chastised for whatever you say, "Geez, well I brought that to the Commission and they supported that concept," that means a lot -

Commissioner Sullivan stated: Right. That is right.

Commissioner Cook stated: But there are personnel procedures and there are purchasing procedures and there are all kinds of procedures, so if you say, "procedures," procedures get you real detailed - involved in -

Commissioner Baines stated: Why don't we just say, "They shall act in an advisory capacity."

Commissioner Shaw stated: That is what I had said -

Commissioner Shaw stated: But I do not understand the word - why you are debating the word, "advisory?" Why - What is the problem -

Commissioner Cook stated: Because Mike Lopez went ballistic when we had advisory -

Commissioner Shaw stated: Well, yes, but we are not -

Commissioner Cook stated: And so we agreed to change it - last week - That is why I changed it - It started as advisory - it started - the word was "advisory" until we came her last week and you went cuckoo so we said, "alright we will make it policy" -

Commissioner Shaw stated: Well, aren't the two words the same?

Commissioner Cook stated: Policy and advisory, no, no -

Commissioner Sullivan stated: - you want to change the title of [Section] 3.05 and just have it be duty of Commission - Duties of Commissions -

Commissioner Cook stated: We can change it - We can change the title to [Section] 3.05, to [Section] 3.05, Power of Commissions, period.

Commissioner Shaw stated: Duties -

Commissioner Baines stated: It would not be power, though, because you are (inaudible) talking (inaudible) power. You are defining the role of Commission, duties of Commissions (inaudible) -

Commissioner Sullivan stated: Duties of Commissions, period -

Commissioner Cook stated: - fine with me.

Commissioner Sullivan stated: And we have (inaudible), "they shall advise the department head -

Commissioner Cook stated: Period.

Commissioner Sullivan stated: And we have (inaudible), "they shall advise the department head -

Commissioner Cook stated: Period.

Commissioner Sullivan stated: - Mayor and Aldermen, period -

Commissioner Cook stated: So we take out, "policy only." So we fix that question by getting rid of it.

Commissioner Baines stated: Why don't you just get rid of it - Shall advise -

Commissioner Sullivan stated: The department head and the Mayor and the Aldermen, period.

Commissioner Baines stated: - department head, Mayor and Aldermen, period.

Commissioner Shaw stated: See we were having Commissions, I thought, because we thought that citizen input into the departments, was it not -

Commissioner Cook stated: Yes, citizen expertise is a good thing to have -

Commissioner Shaw stated: - good thing to have -

Commissioner Baines stated: Maybe that should be stated. Maybe that should be stated as a - like a preamble to this whole (inaudible) -

Commissioner Cook stated: I am not sure we have to put it in there, but I think that we should put it in our report, explaining what we did.

Commissioner Baines stated: - when we talk, later on in the language that we are looking at for, you know, defining the Board of Mayor and Aldermen and acting as a board of directors, in what you sent over, you would be saying that the Commissioners - as serving as a voice of the citizens of Manchester, shall, da dat, da dat, da dah - So then it clearly defines their role. They are there to provide a voice for the citizens, or whatever you want to say. What do you think of that?

Commissioner Shaw stated: That is what they are supposed to do. But they are not supposed to manage the department -

Commissioner Cook stated: But they are not supposed to run the department -

Commissioner Shaw stated: - not manage department. Not say who we should buy off of and not buy off of -

Mr. Groulx stated: I just - I will give a quick example of what the City Clerk in Concord told me about their Advisory Committee for the golf course. They were preparing new fee structure, and the Committee itself researched and made a proposal for the department head - And the department head reviewed the proposal and he did not like it, but the Committee lobbied and - basically lobbied - and got their proposal. So, Mike Lopez's concerns are not necessarily always hard and fast because you do have powers as an advisory committee because you are researching far more than the department has time for, and your proposals may be far more comprehensive than he has time for.

Commissioner Cook stated: Well, the fact that a Commissioner, or a group of Commissioners, because they know a lot about the department, even though they do not have the duty or the power to control or even [have an] obligation to advise on those issues, thinks that there is something wrong with what is going on, they can certainly go lobby for something, they can go talk about something - That is probably a plus and a minus. I mean, that is what is so confusing about keeping Commissions but changing their power, because you are going to be left with - you know - We decide to keep the word, "commissions," you know - After what we did last night and talked about changing the power of the Board of Aldermen, for example, I wondered all night whether we should not call them the City Council to make it clear that they are a different animal -

Commissioner Baines stated: Let me suggest this, "Unless stated otherwise in this Charter, each Commission, in order to provide citizen input -"

Commissioner Cook stated: Yes, I have got that much down already -

Commissioner Baines stated: "- shall advise the department head, Mayor and Aldermen, on matters appropriate for each department for their -"

Commissioner Cook stated: Yes, I have got that much down already -

Commissioner Baines stated: "- shall advise the department head, Mayor and Aldermen, on matters appropriate for each department for their -"

Commissioner Cook stated: No, no, no. - unless you are going to keep the rest.

Commissioner Shaw stated: But that a current - I thought we were going to have these things with the current one, and then the redlining -

Commissioner Baines stated: We will -

Commissioner Cook stated: We will after that is put into the Charter -

Commissioner Baines stated: - this is just for us.

Commissioner Cook stated: I don't have any capacity to do that for this - This computer will not do that -

Commissioner Sullivan stated: Well, what if we just - What if we said something like -

Commissioner Cook stated: - it is just a home computer.

Commissioner Sullivan stated: - and some point - I am sorry - What if we said something - I feel like we are missing something under [Section] 3.04, 3.05 - We talk about the fact that they will be departments. We do not really say, under the Commission section, that the Board of Mayor and Aldermen may establish or continue the Commissions, or whatever - Maybe what we need to say - Something to the effect that Commissions may be established by the Board of Mayor and Aldermen for the purpose of providing citizen input for departmental matters, something like that, period. And then we go on to say, and then - what the - each Commission shall advise the department head, blah, blah, blah, blah, blah, blah, blah, blah - Because we do not really say - We talk about departments in [Section] 3.01, but we do not have a similar sort of, you know - and there will be departments, or we can establish departments - Not departments, excuse me, Commissions - I think we just - We are missing

putting in another word, where we give them - the Mayor and Aldermen the power to reorganize - Say, the departments, including Commissions -

Commissioner Sullivan stated: No, that is not what I am talking about though -

Commissioner Cook stated: Well, what are you talking about? Because I do not understand it.

Commissioner Sullivan stated: I am talking about the fact that, in Section 3.01, that is fine as it is. That is the departments. Commissions is something a little - is something different, and I think that we should, perhaps -

Commissioner Baines stated: Like a [Section] 3.0 -

Commissioner Sullivan stated: - bump up [Section] 3.05, or -

Commissioner Baines stated: - or have a Section 3.05 that says just that, in terms of why we (inaudible) -

Commissioner Sullivan stated: Right.

Commissioner Baines stated: - for the - for this purpose we have established Commissions - The reason we have established Commissions -

Commissioner Sullivan stated: Yes - Right. The reason we have Commissions - Yes.

Commissioner Baines stated: The reasoning there - Therefore, if someone says, "Why do we have Commissions?" That is why we have a Commission -

Commissioner Sullivan stated: - that is why we have Commissions, and then -

Commissioner Baines stated: - and then you will go to say that, "the Commission shall -"

Commissioner Sullivan stated: And then, just by way of format, I think I would take [Section] 3.04 then and push that further on - I do not like starting off a

Commissioner Baines stated: - and then you will go to say that, "the Commission shall -"

Commissioner Sullivan stated: And then, just by way of format, I think I would take [Section] 3.04 then and push that further on - I do not like starting off a section on Commissions with the number of departments - Number of members will be, blah, blah, blah - Because it just does not seem to flow right, to me. I think that if we had some sort of an introductory - So, am I making sense now?

Commissioner Baines stated: Yes.

Commissioner Cook stated: I do not care where they go - I do not care which one comes first. I - Believe me -

Commissioner Sullivan stated: I know you do not care. I am asking you -

Commissioner Cook stated: I am completely neutral on this -

Commissioner Sullivan stated: I am not - I know -

Commissioner Cook stated: - I do not want to have Commissions, so, I mean, I do not care where it goes -

Commissioner Sullivan stated: I know - I am asking you if I am making sense, Brad. I am not asking you if you like it, I am asking you if it makes any sense -

Commissioner Shaw stated: - easier to eliminate 'em -

Commissioner Baines stated: I think the point is well taken -

Commissioner Cook stated: This is the way it is now. That is the only reason that it is in this order -

Commissioner Baines stated: When you look at the flow of a document - you establish why you have them - Then you talk about their authority, what they are going to do - Then you talk about the numbers, then you talk about appointments, term limits, holdover status, it flows -

Commissioner Cook stated: We can put either - any order you want -

Commissioner Baines stated: Okay.

Commissioner Cook stated: We will put [Section] 3.0 - We will make [Section] 3.05 into [Section] 3.04, and we will make [Section] 3.04 into [Section] 3.05 -

Attorney Simon stated: Question. (Inaudible) - Did you specifically decide to abandoned the existing numbering and sections of the Charter, because I guess I am getting to why didn't you just decide to change [Section] 3.10, because that might make it easier for you -

Commissioner Cook stated: We decided to follow along, in the same order, but by getting rid of stuff to make -

Attorney Simon stated: - [Section] 3.10 in the existing document. And, I understand you are -

Commissioner Shaw stated: Which is what?

Commissioner Sullivan stated: [Section] 3.10 is -

Attorney Simon stated: - is Authority of Boards and Commissions and Directives of the Board of Mayor and Aldermen, which says, "Except as otherwise limited in this Charter, each Board and commission shall be vested with full control and management of its department, subject to directives of the Board of Mayor and Aldermen." It seems to me that if you (inaudible) -

Commissioner Cook stated: No, we - This got there because we got rid of enough numbers between the beginning and here, so that this became [Section] 3.04 instead of [Section] 3.10, because we got rid of six [sections], and then we changed meaning -

Attorney Simon stated: Well, I guess if you can, I would even use what, I guess - Let me change that way - I would ask the question, why would you not use the existing catch line to [Section] 3.10 to get -

Attorney Simon stated: Well, I guess if you can, I would even use what, I guess - Let me change that way - I would ask the question, why would you not use the existing catch line to [Section] 3.10 to get -

Commissioner Cook stated: Because we did not want anybody to think that these Commissions had anything to do with what they were before. We do not want these guys to be under any illusion that this is the same kind of thing that existed before.

Mr. Groulx stated: Can I just - It is semantics, but - point of semantics. If you took article three and made that departments and your department heads, and then you took and made Boards and Commissions article four, and then you would have composition, eligibility and terms, however you want them composed - Whose eligible and the term of them - And then you would have the duties of the Commission following that, so you would have article three, which would be departments and which department heads would follow quickly after that, because -

Commissioner Cook stated: Do you mean section or article?

Mr. Groulx stated: It would be -

Commissioner Cook stated: This is all article three -

Mr. Groulx stated: Well that is what I mean. That is why I said it was a point of semantics. Article four could be Boards and Commissions - Boards, Commissions and Committees. That covers anybody that is ever going to be in existence or established in the future. And then you would have, as I see it, for the Boards, Commissions and Committees, you would have composition, how many, eligibility, who and terms, and then the duties of, and what else - And then you would have -

Commissioner Cook stated: My - The answer to your -

Mr. Groulx stated: - have your holdovers -

Commissioner Cook stated: The answer to your question is, we are trying to

of this, because we may find out that we did away with something and two's become three's, and three's become four's, and all kinds of stuff. We are writing a new Charter, we are not amending the Charter.

Commissioner Shaw stated: I entered this whole - I am going to go back with just a [Section] 3.01 in my computer, and then I said, "check this for grammar," and it would say "the sentence is too long."

Commissioner Cook stated: I am sure that is true.

Commissioner Sullivan stated: Well -

Commissioner Cook stated: And I made them a lot shorter this week than they were last week.

Commissioner Sullivan stated: What I am just going to suggest, and I am just going to drag some stuff down here, but we make [Section] 3.04 say, "In order to provide citizen input to City departments the Board of Mayor and Aldermen may establish Commissions to advise the department heads and the Board of Mayor and Aldermen." See you - And then say something to the effect, and I have not had too much time to figure out how it should be written, is that, something to the effect of, "That each Commission existing on the effective date of this Charter shall continue in existence and act in such advisory capacity, until," "unless, until," or whatever procedure three -

Commissioner Cook stated: - (inaudible) always could get - don't get too many concepts in there at once -

Commissioner Sullivan stated: I know, I know. But you get the drift of where I am going though, right?

Commissioner Baines stated: Could you work on something associated with that and mail it over to Brad?

Commissioner Cook stated: No, our job right now is to come up with it.

Commissioner Baines stated: Right now -

Commissioner Cook stated: No, our job right now is to come up with it.

Commissioner Baines stated: Right now -

Commissioner Cook stated: Right now.

Commissioner Sullivan stated: Yes. So, I have the first - "In order to provide citizen input to the City departments, the Board -

Commissioner Shaw stated: We need to work at a computer -

Commissioner Baines stated: Yes, I know, I find difficulty with something like this -

Commissioner Shaw stated: I always like to work in front of the computer.

Commissioner Baines stated: Yes, I do too.

Commissioner Sullivan stated: Alright. I will read it again. "In order to provide citizen input to the City departments, the Board of Mayor and Aldermen may establish Commissions to advise the department heads and Board of Mayor and Aldermen. Each departmental Board or Commission, which exists on the effective date of this Charter, shall -"

Commissioner Baines stated: "- remain in effect."

Commissioner Cook stated: Alright. You are going to take notes on this, and then when we are done tonight, I will get this on here to take back so we can get it out to people.

Commissioner Sullivan stated: "- shall remain in effect -"

Commissioner Baines stated: "Unless changes are made in accordance with Section 3.01."

Commissioner Sullivan stated: No. "- shall -" "Each department Board which exists (inaudible) shall act in such advisory capacity."

Commissioner Sullivan stated: Alright, "shall," (inaudible) -

Commissioner Baines stated: "- shall remain in effect until -"

Commissioner Sullivan stated: "-shall remain in effect," or "remain in existence -"

Commissioner Baines stated: "- remain in existence -"

Commissioner Cook stated: "- until changed under Section 3.01 above."

Commissioner Sullivan stated: "- until changes are made -"

Commissioner Baines stated: "- changes are made -"

Commissioner Cook stated: Or, "unless," I guess.

Commissioner Sullivan stated: "- unless changes are made pursuant to -"

Commissioner Baines stated: "- in accordance with Section 3.01."

Commissioner Sullivan stated: Yes. And then we can say -

Attorney Simon stated: "- unless changed pursuant to this Charter." Don't tie yourself into section numbers or you will -

Commissioner Sullivan stated: "- changes are made pursuant to this Charter."

Commissioner Cook stated: That is fine.

Commissioner Sullivan stated: Okay. That is a good point.

Commissioner Baines stated: That is fine. Okay -

Commissioner Sullivan stated: And then - Do I - Should we then continue to say, "They shall be made up of the same number of Commissioners." If we say they remain in existence, that is (inaudible) - guess that is kind of -

Commissioner Sullivan stated: And then - Do I - Should we then continue to say, "They shall be made up of the same number of Commissioners." If we say they remain in existence, that is (inaudible) - guess that is kind of -

Attorney Simon stated: Right -

Commissioner Sullivan stated: - explicit.

Commissioner Cook stated: Well, okay. That is fine until Mr. Lopez shows up and then he has got to say, "I want it set in concrete."

Commissioner Shaw stated: You could set the size in a separate section, or an "A."

Commissioner Sullivan stated: Okay. And then we will just say, "shall remain as (inaudible)." And then we will just leave that statement in, yes.

Discussion ensued with all members speaking at once and Commission Cook made notations as to language.

Commissioner Baines stated: "- Board of Commissions (inaudible) -"

Commissioner Cook stated: "- exist at such a (inaudible) -"

Unidentified stated: Number of men -

Moved discussion to Section 3.06, Appointments and Organizations.

Commissioner Sullivan stated: Well, I guess just before we do that - [Section] 3.05 then, I guess we can take out that first sentence all together, because it is now covered in [Section] 3.04, right?

Commissioner Cook stated: No. You did not, no. I hope you did not put the duties -

Commissioner Sullivan stated: We said, "In order to provide citizen input may establish Commissions to advise department heads, the Board of Mayor and

Commissioner Sullivan stated: Okay. So we will change that [tape ends] - "Unless stated otherwise in this Charter [Commissioner Shaw speaking at the same time - inaudible], each Commission shall advise the department head, Mayor and Aldermen."

Commissioner Cook stated: Well you are going to want a provision on the duties of the -

Commissioner Baines stated: Fine. But you want to just - Okay, never mind. You don't think that we need to state, "on matters appropriate for the department."

Commissioner Cook stated: No. Too broad. I mean, do I like it? Yes. Is it going to fit with what these people decided, no.

Commissioner Baines stated: Could I get agreement or disagreement on, instead of on "policies appropriate for the department," to say, "on matters appropriate for the department."

Commissioner Sullivan stated: Yes -

Commissioner Cook stated: Yes. I think it should.

Commissioner Baines stated: Okay.

Commissioner Cook stated: Because we do not want them advising them on just anything in the world.

Commissioner Baines stated: That is correct. And I think that may satisfy somebody like Commissioner Lopez's concerns. Okay, read the rest of that, and see if you are okay with the rest of it - Can we just read the rest of that to see if we can come toward the new Section 3.06? - just the rest, where it says, "The Commission shall have no responsibility for personnel decisions" and the rest of that wording. Is that okay?

Commissioner Shaw stated: "The Commission shall have no responsibility for personnel decisions or administration of the department . . . of this Charter."

Commissioner Shaw stated: "The Commission shall have no responsibility for personnel decisions or administration of the department . . . of this Charter."

Commissioner Baines stated: For example, there are Commissions that have certain - like the Water Works (inaudible) -

Commissioner Cook stated: If we find out that the Water Works is required to have it, and we put something specific in, fine. We are waiting on that question -

Commissioner Shaw stated: Well, we do not even know then if the Commission has any responsibility for the Water Works -

Commissioner Baines stated: We do not know that yet.

Commissioner Shaw stated: We only know that they have a Commission. We do not know what their responsibilities are -

Commissioner Sullivan stated: That is right.

Commissioner Baines stated: If we find out they (inaudible) -

Commissioner Cook stated: Well if there aren't any, then this will be inoperative.

Commissioner Baines stated: - we can revisit.

Commissioner Cook stated: If there are none, then it would be fine to take it out.

Commissioner Baines stated: Okay - I do not know what the authority of the MTA Commissioners are -

Commissioner Cook stated: Or if they are a department of the City -

Commissioner Baines stated: - or if they are a department of the City - Or the Manchester Housing Authority, I mean -

Commissioner Cook stated: But, Tony is going to tell us all of that next week.

Commissioner Baines stated: The Manchester Library is the other one -

Commissioner Shaw stated: What is the question? And the question is that, what authority does the Board of Directors of these organizations have?

Commissioner Cook stated: Did she ask you a second set of questions last week?

Attorney Simon stated: No.

Commissioner Baines stated: She did not ask to have you look at the Library, the MTA and the MHA?

Attorney Simon stated: She asked me in her phone conversation this morning -

Commissioner Cook stated: No, not today. Last week. She did not call you and ask you a new set of questions?

Attorney Simon stated: Did not talk with Toni [Pappas] on my own -

Commissioner Cook stated: I am sure. I am sure -

Attorney Simon stated: (Commissioner Cook speaking over what is being said by Attorney Simon; completely inaudible.)

Commissioner Cook stated: - we believe you. I am just incredulous -

Commissioner Sullivan stated: He is not - There are just totally (inaudible) -

Commissioner Baines stated: Can we move to [Section] 3.06 now? Let's do [Section] 3.06, silently.

Commissioner Sullivan stated: Oh geez - You know, this is like - I spend my free time with somebody who is a school administrator, I go home to someone who is a school administrator - I am so sick and tired of people telling me what to do -

free time with somebody who is a school administrator, I go home to someone who is a school administrator - I am so sick and tired of people telling me what to do -

Commissioner Shaw stated: Well - [Section] 3.05 is a mishmash, that is for sure.

Commissioner Cook stated: I am surprised he got his thumb out from inside his cheek after last night, after all of that.

Commissioner Shaw stated: It is kind of interesting that in [Section] 3.05 you say that, they don't have any responsibilities except if the Mayor should ask them -

Commissioner Cook stated: No, that is the Mayor asking only -

Commissioner Sullivan stated: That is only for nominating -

Commissioner Cook stated: - only for - to act as a nominating committee.

Commissioner Sullivan stated: - only for nominating.

Commissioner Shaw stated: Whoa, boy - I have read it seven times. Every time I stumbled in it -

Commissioner Baines stated: Nominating committee.

Commissioner Shaw stated: Huh?

Commissioner Baines stated: It is the - Unless the Mayor wants them to ask them that (inaudible) -

Commissioner Cook stated: If it has ever been requested by the Mayor, the Commission may serve as a nominating committee. And I do not care if that is in there or not, it is just something that was suggested that sounded like it made some sense -

Commissioner Baines stated: Tony -

here. I don't know if you have caught on to that yet -

Attorney Simon stated: In - Well, I am trying not to be free wheeling, because I do not want to be an obstacle here. In [Section] 3.05, you say, "The Commission shall have no responsibility, etcetera, etcetera." Yet, in department heads, it does not -

Commissioner Baines stated: Where are you now?

Commissioner Sullivan stated: He is going back one -

Attorney Simon stated: Well, I moved to [Section] 3.12.

Commissioner Cook stated: Well, why don't we wait until we get there.

Attorney Simon stated: Well -

Commissioner Shaw stated: Alright, [Section] 3.12 - Department heads -

Attorney Simon stated: Okay, fine.

Commissioner Baines stated: Yes, let's wait until we get there.

Attorney Simon stated: Fine, fine.

Commissioner Baines stated: If we find that is out of sync with what have decided here, we will go back.

Commissioner Sullivan stated: Yes.

Commissioner Baines stated: Okay. Now, John, what was your concern about [Section] 3.07?

Mr. Groulx stated: Section - Where it says, "provisions of Section 3.07," it should read, "provisions of Section 3.08," because that is where it says -

Commissioner Cook stated: You are right. Correct.

should read, "provisions of Section 3.08," because that is where it says -

Commissioner Cook stated: You are right. Correct.

Commissioner Baines stated: Okay.

Commissioner Shaw stated: This one, yes, he is right. [Section] 13 is wrong.

Commissioner Sullivan stated: Can I - I have just got something a little - You can accuse me of just being too picky, here. Can we just say, "Each January the Commission shall choose one of its members to chair the Commission?"

Commissioner Cook stated: That language came right out of the present Charter - You can do anything you want, I mean -

Commissioner Sullivan stated: I know, I just -

Commissioner Shaw stated: Which - Where are you at, now? [Section 3.0] 7?

Commissioner Sullivan stated: No, [Section] 3.06 - this last sentence -

Commissioner Baines stated: Just say, "Each January -"

Commissioner Shaw stated: "Members of all Commissions of the City shall be nominated by the Mayor and shall not take office . . . appointment has been confirmed by a vote of seven Aldermen."

Commissioner Baines stated: "Each January the Commission shall choose -"

Commissioner Sullivan stated: Yes -

Commissioner Cook stated: "Each January each Commission shall choose -"

Commissioner Sullivan stated: It is a picky comment, but -

Commissioner Cook stated: You want to make it into easier English.

change them - Fine with me.

Commissioner Baines stated: Okay. Let's move to Terms and Limits.

Commissioner Cook stated: Now, before we go on to [Section] 3.07, before we go on to [Section] 3.07. Should [Section 3.0] 7 be [Section 3.0] 8? Is my assumption correct, and it is only an assumption, there is no - nothing running around hidden in it, but now that we have fourteen Aldermen -

Commissioner Sullivan stated: It should be eight -

Commissioner Cook stated: Should it be eight?

Commissioner Shaw stated: No, it has to be a certain (inaudible) percentages, the Aldermen elect - Because you do not, you know, it would be much easier to say two-thirds of the Aldermen elected, you know -

Commissioner Baines stated: You know, it is not Aldermen elected, though. Remember we had (inaudible) -

Commissioner Shaw stated: Aldermen elect means twelve or fourteen -

Commissioner Baines stated: No, no it does not. No.

Commissioner Shaw stated: - or fifteen.

Commissioner Baines stated: We heard the definition of that, it is not. Aldermen elect refers to Aldermen who have been elected (inaudible) -

Commissioner Cook stated: - and not serving.

Commissioner Sullivan stated: - who have not been sworn in.

Commissioner Shaw stated: Well, elected then. Aldermen elected -

Commissioner Cook stated: Just Aldermen, period.

Commissioner Shaw stated: Well, elected then. Aldermen elected -

Commissioner Cook stated: Just Aldermen, period.

Commissioner Shaw stated: Aldermen elected - No. Because you, at a board meeting where there are only ten present, you know, if you want the Mayor can veto their decisions.

Commissioner Cook stated: But, you know - Read this thing -

Commissioner Shaw stated: But I am just saying, you should -

Commissioner Cook stated: The Mayor is - Nobody is going to be in front of him unless the Mayor has already nominated them, Bob, because he has got the sole power of nomination of these people. So this is not going to come up unless he has already said, "this is the person I want." How is he going to veto that?

Commissioner Shaw stated: Well on the - the second part, though, he has the veto power.

Commissioner Cook stated: Where? What are you talking about? I am talking about [Section] 3.06.

Commissioner Shaw stated: Wait a minute - Yes, [Section] 3.06 he does not have to worry.

Commissioner Cook stated: Alright, so it has got to be eight, right?

Commissioner Baines stated: Yes, we could also agree to that -

Commissioner Cook stated: We are just talking about that one.

Commissioner Sullivan stated: That can be eight. That would be eight.

Commissioner Shaw stated: - just want to make it eight.

Commissioner Cook stated: I know there are some where it said eight that it has

Commissioner Sullivan stated: Yes.

Commissioner Shaw stated: - always elected. This is brazen -

Commissioner Baines stated: Now, any problem with Terms and Limits?

Commissioner Shaw stated: Well I wondered - I am not going to - I do not have a problem with it, but, it is two successive full terms -

Commissioner Cook stated: That means if somebody is a holdover - Somebody gets appointed for the last two years of somebody's term, we are not keeping them to only two years plus one full term -

Commissioner Shaw stated: That person can stay eight -

Commissioner Cook stated: That person can stay eight.

Commissioner Sullivan stated: Yes -

Commissioner Shaw stated: That is your theory -

Commissioner Baines stated: But if you -

Commissioner Cook stated: I do not care - But, I mean, that is what it means.

Commissioner Baines stated: - let's say you can come in, because of the holdover situation, you come in three, four, five months into a term. You now would be eligible to serve that term, another term and another term -

Commissioner Shaw stated: Ahh, yes -

Commissioner Baines stated: And there is a lot of that.

Commissioner Shaw stated: You see, the point is that -

Commissioner Cook stated: Okay. No, I see it -

Commissioner Shaw stated: You see, the point is that -

Commissioner Cook stated: Okay. No, I see it -

Commissioner Shaw stated: So, why is it his doing?

Commissioner Baines stated: - so a lot of these people - If the Mayor does not get somebody on board at the beginning of the term -

Commissioner Shaw stated: Then why have the term start at a certain point? Why isn't it that you don't nominate a person for five years from the date he is confirmed, versus - you know - everybody's term starts in January, or March, or -

Commissioner Baines stated: Well that would not be the case. Everybody is - They do start at different times.

Commissioner Cook stated: It would probably make an administrative nightmare for the Clerk's department, probably -

Commissioner Shaw stated: Why?

Commissioner Baines stated: But how do we deal with this (inaudible)? Because this is a real (inaudible), so let's figure out how to deal with that.

Commissioner Cook stated: No, I understand the question. I just have not talked to people.

Commissioner Baines stated: Because, that most - A lot of these Commissioners will not get appointed at the beginning of their terms, just because of the politics.

Commissioner Cook stated: Well, the way a lot of places work it, they say, "if a full term is the whole term or more than half of the term," the full term will be defined as more than a year and a half of a term - Some places do that.

Commissioner Baines stated: There you go. That is what you need to -

technical point that, the term starts in January, but you are not confirmed until May -

Commissioner Cook stated: Right. No, I understand, no I - And I think that is a legitimate question.

Commissioner Baines stated: So it might not be their - If in fact we put in there -

Commissioner Shaw stated: I don't know - Five years from May is not alright -

Commissioner Baines stated: Okay. Right here, "Unless otherwise established in this Charter, members of Commissions shall serve for three-year terms, and shall be limited to two consecutive full terms. Full terms shall be defined as -"

Commissioner Shaw stated: But let's say that you are on Parks, and you serve five months and you resign, and somebody else gets appointed to your thing - He would have two and a half more years to go.

Commissioner Baines stated: Shall we - We would consider that a full term.

Commissioner Shaw stated: But if we were to say that his terms, you know, the new person's term starts, he has three years from the time he is confirmed.

Commissioner Cook stated: Do want to say a term of two-years or more?

Commissioner Shaw stated: Then he gets his full term -

Commissioner Baines stated: I would say two-years on that.

Attorney Simon stated: Can a person (inaudible) move to another Commission?

Commissioner Cook stated: Sure.

Mr. Sherman stated: Being in there two terms?

Commissioner Cook stated: Oh yes, yes. This is per Commission, this is not - Yes, we are not trying to deprive people of City service.

Mr. Sherman stated: Being in there two terms?

Commissioner Cook stated: Oh yes, yes. This is per Commission, this is not - Yes, we are not trying to deprive people of City service.

Commissioner Shaw stated: I would have thought anybody who -

Commissioner Cook stated: We are just trying to say, each Commission should not just be totally grand fathered.

Commissioner Baines stated: Would that need to be set though, for the legal interpretations?

Commissioner Cook stated: I do not think so.

Commissioner Shaw stated: I think we should -

Commissioner Cook stated: I mean, tell us. Do you think we should make that clear?

Commissioner Sullivan stated: Yes -

Commissioner Cook stated: Nothing herein shall prohibit somebody who cannot serve on one Committee from serving on another?

Commissioner Sullivan stated: I think we should.

Commissioner Baines stated: Yes, let's add a little statement about that.

Attorney Simon stated: Well, why don't -

Commissioner Cook stated: I mean, I don't have any problem with putting that in.

Commissioner Shaw stated: Why did you want the person off?

Attorney Simon stated: Why don't you just say, "members of Commissions shall

Commissioner Baines stated: Just put, yes - On the same Commission.

Commissioner Cook stated: On the same Commission. On the same - That is good.

Commissioner Baines stated: That is a full term, say "on the same Commission."

Commissioner Sullivan stated: "- on (inaudible) consecutive full terms per Commission."

Commissioner Shaw stated: So then the man goes over to -

Commissioner Sullivan stated: - or woman -

Commissioner Shaw stated: - he just moves on to a different Commission. Everybody just goes in a circle.

Commissioner Cook stated: That is a (inaudible) - Never find that - That could happen -

Commissioner Shaw stated: Thwarting the idea of the whole thing. People are supposed to take a rest -

Commissioner Baines stated: Well, let's listen to his point.

Commissioner Shaw stated: What was the reason to get them off? - they are to get a rest and have some new blood come into the government - That was the reason -

Commissioner Cook stated: That is - No. But it is not new blood in the government.

Commissioner Baines stated: Because you may have somebody who did a great job - and from a managerial viewpoint you had a great Commission over there. And say, let's put them over in the other department and see if he can help us out with that department -

Commissioner Baines stated: Because you may have somebody who did a great job - and from a managerial viewpoint you had a great Commission over there. And say, let's put them over in the other department and see if he can help us out with that department -

Commissioner Sullivan stated: But on the other hand -

Commissioner Baines stated: - that could happen.

Commissioner Shaw stated: But that is not what you wanted.

Commissioner Sullivan stated: No, but on the other hand though, you also have this idea that there is this limited pool of bodies that serve on Committees -

Commissioner Shaw stated: And they are all democrats.

Commissioner Sullivan stated: - all democrats? What are you talking about?

Commissioner Cook stated: You are a democrat.

Commissioner Sullivan stated: He forgot.

Commissioner Shaw stated: Erase that.

Commissioner Sullivan stated: You have got to like it.

Commissioner Shaw stated: I forgot what hat I had on tonight. I thought you wanted to have new blood.

Commissioner Sullivan stated: There is - That a good point.

Commissioner Shaw stated: And I thought you were supposed to take - That anybody was supposed to take a one-year hiatus -

Commissioner Cook stated: - somebody had to take a rest - a one-year - I mean, I do not care, Bob, to tell you the truth.

Commissioner Shaw stated: That was a point that was brought up, for sure -

Commissioner Baines stated: Well let's - What I would suggest that we put the wording that Tony has suggested into this, and we bring it to the full Commission - Let's -

Commissioner Cook stated: Yes, and when we bring it to them, we will tell them that this is an issue, that this is what we came down to, and if they want to change it, that is fine.

Commissioner Sullivan stated: Okay, that is fine. Yes -

Commissioner Shaw stated: And, you know - I think that we should count backwards. I do not know why that we have to say that a person who is on a Commission, and they - you know - and he comes up for renewal, and now the Charter kicks in and he gets two terms, alright? So, I mean - Pick on my favorite, the Airport. A person who has already got two terms, you know, they got - it might even be five years - And now, all of the sudden, he is entitled under this Charter, whatever it is, he is entitled under this Charter, to start counting his first term when his other one expires. And that would not have been our intent, either. The thing is, that our - the intent is to count how many years he has already served and he is not eligible - I thought -

Commissioner Sullivan stated: I guess that is an issue we have to address for the transition sections, whether - If someone has already - The problem that we could have Bob, is that we might end up with a Commission where -

Commissioner Shaw stated: All of them have to go -

Commissioner Sullivan stated: - that we have - And there is no continuity.

Commissioner Cook stated: Well, I do not think -

Commissioner Sullivan stated: And there is something to be said for having a little bit of continuity -

Commissioner Shaw stated: - well, when their terms expire. Not that they have

Commissioner Sullivan stated: And there is something to be said for having a little bit of continuity -

Commissioner Shaw stated: - well, when their terms expire. Not that they have to resign on the day this thing happens. But, when their term expires -

Commissioner Cook stated: All I said here about present terms rolling out means, that we are not saying - Just like we are not - Just like we are rolling out the terms for the department heads, even though we are not giving department heads terms, they keep their term that they presently have and this at-will thing kicks in after that term is over. All I meant here, and because I have seen it in other transitions -

Commissioner Shaw stated: That would not work. Then that would mean that when a department head's term expires, the Mayor would get the chance to nominate - And the new person would have -

Commissioner Cook stated: Well, we are not there yet. Just -

Commissioner Shaw stated: But, you know, that is what (inaudible) -

Commissioner Cook stated: That is not what - That is what the statute says, okay? That is what the statute says. It says, notwithstanding no terms, you can - people that you hired in the term, which is a contractual thing that you did for them when you hired them -

Commissioner Sullivan stated: Right.

Commissioner Cook stated: - I am hiring you, Mr. Library Director, or - whoever it is - for a term of four-years, and then the Charter comes in and says, "Oops - Kidding. You are gone."

Commissioner Sullivan stated: Yes, we cannot take his term away.

Commissioner Cook stated: - you know - That is why those roll out. Now we are not making a contract where the -

ends, or tomorrow afternoon. I mean they are going to vary, because the terms vary.

Commissioner Baines stated: Okay. Can we move on? Can we move to Section 3.08, Holdover Members of Commissions? (Inaudible) - how long for a holdover?

Commissioner Cook stated: Depends on how long the Committee (inaudible) -

Commissioner Shaw stated: "No member of a Commission, whether advisory or specifically established by this Charter, shall serve in holdover status -"

Attorney Simon stated: What does that mean?

Commissioner Cook stated: That means there are two kinds of - It may not mean anything. If - If, after you give us the answers to our questions that we are about to give you, and the Commission decides - If we were to decide in [Section] 3.03, that there are some departments that we want to put in the Charter, there is going to be a Water Works Department, and the Waters Works Department is going to have a board of directors, and they are going to be like the board of directors of a business and they are going to run it, and they are going to be responsible for personnel and rates and boom, ba boom, ba boom - if we decide it - and I am not saying we will - But if we did, that would be a non-advisory one, and so what we have done in drafting so far is left two kinds of possibilities. We have - The Commission itself has not gotten to the issue of whether we want to have specific -

Commissioner Shaw stated: Favored and unfavored -

Commissioner Cook stated: - some specific departments in the Charter, with advisory boards or department [sic] with Commissions that are going to be controlling Commissions as opposed to advisory Commissions. We still have not gotten to that point. That is the difference.

Mr. Groulx stated: Do you want to add, "or by State statute," so that you can blanket cover Planning and Zoning?

Mr. Groulx stated: Do you want to add, "or by State statute," so that you can blanket cover Planning and Zoning?

Commissioner Shaw stated: Yes, but they are not Commissions.

Commissioner Baines stated: They are not Commissions.

Commissioner Sullivan stated: Yes, they are - They are going to exist no matter what we do.

Mr. Groulx stated: Do you want to eliminate the part where it says "boards" then? "Except Boards, Commissions -"

Commissioner Cook stated: Well, here is a question. Are there any boards in the City? Is there anything that is a board that is really a Commission?

Commissioner Sullivan stated: There is the Board of Registrar, Board of Recount - No, because the only board is the Board of Recount, Board of Registrars -

Commissioner Cook stated: Is there - Well, because we call them a lot of things. We call some of them authorities. The Airport Authority is a Commission.

Commissioner Baines stated: But, he has got a point that we cannot leave alone, because you do have a Zoning Board. We are not even talking about boards in here in terms of -

Commissioner Cook stated: Well, that is why I asked my question. We can get rid of the word "board," if there is no Commission called a board.

Commissioner Shaw stated: Or, we can change the name of that -

Attorney Simon stated: Well, how do you define a Commission?

Commissioner Baines stated: Well, it would be the Zoning Commission -

Commissioner Cook stated: Well, we are going to have the list of them in here.

Commissioner Cook stated: Going to have a list -

Commissioner Sullivan stated: Planning Board, Zoning Board -

Commissioner Shaw stated: What is a Commission?

Commissioner Baines stated: Hold on. I need an answer to which boards we have.

Commissioner Sullivan stated: Planning Board, Zoning Board, Recount, Registrars.

Commissioner Baines stated: Okay, Planning, Zoning, Recount - (inaudible) -

Commissioner Sullivan stated: There is a -

Commissioner Cook stated: Is the Library Board a board?

Commissioner Sullivan stated: A Board of Trustees. There is a Board of Trustees for the cemeteries.

Commissioner Cook stated: There is? Oh.

Commissioner Sullivan stated: Yes. They still sit as a Board of Trustees for the cemeteries -

Commissioner Cook stated: Okay. Alright, fine.

Commissioner Sullivan stated: - there is a Board of -

Commissioner Shaw stated: - of Assessors.

Commissioner Sullivan stated: - Assessors. There is a Board of Trustees for City trust funds. There is - I am missing something -

Commissioner Baines stated: There is no mention of them in this Charter.

Commissioner Baines stated: There is no mention of them in this Charter.

Commissioner Shaw stated: Of what? Of any of those?

Attorney Simon stated: And he looks at me like I am responsible for that -

Commissioner Cook stated: He just certified it. He did not do it.

Commissioner Sullivan stated: - Registrars - Board of Registrars and Recount (inaudible) -

Commissioner Cook stated: But we are blaming you anyway - But we are blaming you, Tony.

Commissioner Sullivan stated: Assessor, no - No, Assessors and Recount and Registrars are all referenced in here.

Commissioner Cook stated: The Board of Assessors is the collective department heads -

Commissioner Sullivan stated: - and there is - no -

Commissioner Baines stated: Planning, I think -

Commissioner Sullivan stated: Planning department heads, I believe.

Commissioner Baines stated: - but you have a Planning Board.

Commissioner Sullivan stated: Planning Board is different -

Commissioner Baines stated: Well how are we going to deal with these in the Charter?

Commissioner Sullivan stated: I think we should -

Commissioner Cook stated: Well, the question that goes - That is a good issue and that is a good question. This is not a drafting question for this section. The

Commissioner Baines stated: So, the question might be - We might want to deal with (inaudible) separately - Boards and trustees - and -

Commissioner Cook stated: When we put the list - When we put the list, which I now see the value of, a lot - We are going to put - We formerly had it for what they were and how many people were on it. But now we better put it for who we are talking about in here -

Commissioner Baines stated: So does Zoning - Is the Zoning Board established by ordinance then?

Commissioner Sullivan stated: State statute.

Commissioner Cook stated: State statute says that every town and - Then there is a State -

Attorney Simon stated: Planning Board -

Commissioner Cook stated: There is an ordinance in Manchester about the thing, too. But there is a State statute on it.

Commissioner Sullivan stated: And I think there is an ordinance that talks about the appointment -

Attorney Simon stated: What you getting to Bob, is the reason why that they delineated between basic services departments and special services departments. That is largely the reason. And I was going to ask before, but I am so shy that I did not - Whether you had abandoned that approach or not?

Commissioner Baines stated: His question is, have we - Are we thinking of abandoning the concept of the special services departments?

Commissioner Cook stated: We deleted all departmental references from the Charter, period.

Commissioner Baines stated: Well we are referencing them by listing them -

Commissioner Baines stated: Well we are referencing them by listing them -

Commissioner Shaw stated: Except by title only.

Commissioner Baines stated: - title only -

Commissioner Cook stated: Except by title only.

Commissioner Shaw stated: The following departments are in existence at the time of the Charter -

Commissioner Cook stated: Yes. And this is fine unless they are reorganized by the Mayor and Aldermen.

Attorney Simon stated: But why - I mean the special services departments -

Commissioner Cook stated: Why, because we do not want them set in concrete.

Commissioner Shaw stated: But you could put two different words in his point. You could have a certain type of department, you could have a special services type of department -

Commissioner Sullivan stated: Can I ask - But why?

Commissioner Baines stated: Why do that?

Commissioner Cook stated: Yes. I mean we do not want -

Commissioner Shaw stated: A department is -

Commissioner Baines stated: I mean, what is a special - Every service is special in the City.

Attorney Simon stated: No. No. No. Some of them -

Commissioner Shaw stated: No, some are more special than others.

Department does not have a Commission to deal with, alright?

Commissioner Baines stated: It probably should.

Attorney Simon stated: Well - Indeed it may, and I have a whole lot of opinions on that, but you are not paying me for those opinions -

Commissioner Shaw stated: We are not going to pay you for that -

Attorney Simon stated: Public Building Services, same thing - I mean, deals with the Airport Authority. You mean that kind of concept might deal with the MTA, for example.

Commissioner Sullivan stated: Well, and that is why I think that -

Commissioner Cook stated: Well, that is the question that you were supposed to be answering -

Commissioner Shaw stated: Or will answer -

Commissioner Cook stated: But we will go over the questions again. Do not get all hung up on that - But, I mean -

Commissioner Baines stated: Well, so your answer, had we have (inaudible) that concept, the answer is yes.

Commissioner Cook stated: That is why we have [Section] 3.03.

Commissioner Sullivan stated: But - But we recognize -

Attorney Simon stated: But, my question is why?

Commissioner Cook stated: We wanted to.

Commissioner Sullivan stated: Why - Because we wanted to - That is right. We want to keep it simple.

We want to keep it simple.

Commissioner Shaw stated: No. No. We started out that no department was going to be sacred and the Aldermen had the power to eliminate any department they wished, combining the departments they wished, as except those required by State law.

Commissioner Sullivan stated: We want to keep it simple.

Commissioner Cook stated: And Section 3.03, that we went by, and said it is pending and that the notation on there is, "pending full action by the Commission," is after we get legal advice, and after we have had the chance to talk about it and think about it, are we going to put some of the departments back into the Charter, specifically? And that is where that will be.

Commissioner Baines stated: And require them.

Commissioner Sullivan stated: That is mandatory requirements.

Commissioner Cook stated: And require them.

Commissioner Shaw stated: One of the things that we were going to take out of the Charter that is in here now is the contradictions, where on the one hand it says that they can do thus and thus, and then in the last paragraph it says, but they cannot. Or, the department heads can run the department, but they cannot. Okay? So, what we are trying to do is more clearly define, starting with the Mayor, who appoints everybody, subject to confirmation - And then, department heads run it, okay? Getting advice from citizens.

Attorney Simon stated: Well, except that - and Brad made a comment before which is troubling me greatly, about you wanted to change it so much that it looks completely different. There has got to be - You can make it completely different with different wording. If you use the same - There is a value to continuity. I mean, continuity is essential, alright? And, when -

Commissioner Shaw stated: But this is what - Continues with the other Charter -

Commissioner Shaw stated: Take out all words -

Commissioner Baines stated: - in terms of the City, and (inaudible) -

Commissioner Shaw stated: Taking out the words is all we are going to do. There are [sic] going to be a department of fire [sic], but we are not going to say who heads the Fire Department. - I thought that was the direction -

Commissioner Cook stated: Right, exactly.

Commissioner Shaw stated: Yes, so under Fire there -

Commissioner Baines stated: I do not think you want to engage in a debate of why we are doing it - We were elected to do what we are doing -

Commissioner Shaw stated: No, no, no - But we want to - You can see the direction. There will be a word, "Fire Department," that is it. Our intent is to reduce the number - I thought it was until I read his - Reduce the number of words with little a's, b's, and c's, too, maybe - That is where we were headed.

Commissioner Baines stated: I would like to move back to Section 3.07. - Make sure we are clear on that.

Commissioner Shaw stated: - which is - And then it got pretty verbal -

Commissioner Cook stated: Right -

Commissioner Baines stated: Okay, and now we can move to Holdover Members of the Commission. We look at that Section -

Commissioner Shaw stated: You are on [Section] 3.07?

Commissioner Cook stated: [Section] 3.08, Bob -

Commissioner Shaw stated: [Section] 3.08. No need for those words. No member of a Commission - Our intent in this Charter is clear -

Commissioner Shaw stated: [Section] 3.08. No need for those words. No member of a Commission - Our intent in this Charter is clear -

Commissioner Cook stated: Fine. Okay. Take it out.

Commissioner Shaw stated: Okay. That is what I mean. That is how we would go through the thing. So, "serve in a holdover status for a period longer." Let them define what they think a Commission is. They will argue -

Commissioner Cook stated: No, that is why they give them that, Bob -

Commissioner Shaw stated: Yes. That makes government more fun. "Shall serve in a holdover status for a period longer than ninety days after expiration of," and then you put in "his or her term." "Any term," no?

Commissioner Cook stated: I put, "any," because I got rid of his and her because it used to say -

Commissioner Sullivan stated: If you use "any" instead of "his or her" it is shorter.

Commissioner Shaw stated: "Any." Okay, got it.

Commissioner Baines stated: - (Inaudible) be nine votes.

Commissioner Shaw stated: "At the end of such period, the office shall become vacant unless the Mayor has reappointed the incumbent." Okay.

Commissioner Sullivan stated: Can I ask a question? And I apologize because I know that I was not here for most of the drafting meeting last week - Does that mean that if the Mayor has reappointed the incumbent, and the incumbent has not been approved by the Board of Aldermen, that it is now not considered vacant? Are you - Getting a little confused there.

Commissioner Cook stated: Right. Yes. That is what that means.

Commissioner Shaw stated: You see and that -

Commissioner Sullivan stated: No, I do not need the theory. I just - That is fine.

Commissioner Shaw stated: See, "no member of a Commission shall serve in a holdover period status for a period longer than ninety days after . . . unless the Mayor has reappointed the incumbent. That is where you go back to it, isn't it?

Commissioner Cook stated: No, I do not think we have any problem with it.

Commissioner Sullivan stated: Yes, that is fine.

Commissioner Shaw stated: I mean, you do not have to say, "at the end of such period, the office . . . become vacant."

Commissioner Cook stated: Yes you should. Sure you should.

Commissioner Shaw stated: "No members shall serve - " Unless - But I mean, I am saying you put the part where - If the Mayor has appointed the - reappointed the incumbent -

Commissioner Cook stated: Right. Then the term - Then the thing has not become vacant. Otherwise, it has become vacant. Because there is only two other things that could happen. The Mayor does not appoint anybody, or the Mayor has appointed somebody else.

Commissioner Shaw stated: Yes, but you see -

Commissioner Cook stated: Only if the Mayor has appointed the incumbent, does it say full, because for continuity -

Commissioner Shaw stated: And I think that - Reappointed is the wrong word. It is "nominated."

Commissioner Cook stated: Yes, that is fine. "Renominated the incumbent." Renominated - That is fine. Yes, I missed it there. I did it -

Commissioner Shaw stated: Because you, you know - You cannot appoint -

Commissioner Shaw stated: Because you, you know - You cannot appoint -

Commissioner Cook stated: No, you are right.

Commissioner Shaw stated: "The Mayor shall submit a nomination not later than ninety days after -" The Mayor nominates - Well, this is just for argument sake, it does not have anything to do with the words there - He nominates somebody on the eighty-ninth day -

Commissioner Cook stated: Right -

Commissioner Shaw stated: Okay? That - He complied.

Commissioner Cook stated: Right.

Commissioner Shaw stated: He complied with that, okay. And they can take their sweet time, and this person is a holdover because he was renominated, you know -

Commissioner Cook stated: Yes, but that - That is balancing the need for continuity in the - Place it with the concept of - What we are doing here, is doing away with holdovers.

Commissioner Shaw stated: No you are not.

Commissioner Cook stated: Yes we are.

Commissioner Shaw stated: You do not ever have to bring up the nomination -

Commissioner Cook stated: After ninety days.

Attorney Simon stated: You are limiting holdovers - You are not doing away with them -

Commissioner Cook stated: Well, that is right. But we are -

Commissioner Baines stated: - making a giant step forward.

Commissioner Cook stated: What we are doing is eliminating the situation in which you have been elected Mayor and I am on a Commission and you say, "I don't want him to be on that Commission anymore," and I have got seven buddies on the Aldermanic Board who say, "You are never getting anybody confirmed for Cook." And, whether that is good because it is Cook or bad because it is somebody else, does not matter. Our opinion is that should not hinder the Mayor's ability - flexibility to do it, and if the job has become vacant, so you are not looking at somebody sitting in the chair, it is helpful to the process.

Commissioner Sullivan stated: You need eight buddies.

Commissioner Cook stated: Well - Fine.

Commissioner Sullivan stated: Because then you could be coming from the Board -

Commissioner Baines stated: Okay? Can we move forward?

Commissioner Shaw stated: Is that what it is? It takes eight votes?

Commissioner Baines stated: Nine -

Commissioner Shaw stated: It is going to take nine -

Commissioner Baines stated: It has to - Brad, that changes to nine votes.

Commissioner Cook stated: Yes, that is correct. That would change this to nine.

Commissioner Baines stated: Okay. Let's move to Section 3.09. Membership Limitations. And this is what where we have to (inaudible) last night.

Commissioner Shaw stated: God, I hope the Committee does not argue these things as long as we do. "No Commission shall be comprised entirely of members of the same political party. No Commissions shall have a majority of members from any one ward . . ."

Commissioner Cook stated: That is what we had decided last night.

Commissioner Shaw stated: Yes. "The Mayor and Aldermen shall seek broad geographic . . . members of all boards."

Commissioner Sullivan stated: Can I ask a question, here? And again, I apologize for not being here at the last meeting, but - When you say, "shall not -" "No Commission shall be comprised entirely of members of the same political party." You could have a situation where you have a five member Commission, where the Mayor appoints four either democrats or republicans and one libertarian. Is that what you want it to do?

Commissioner Cook stated: - libertarian. Right. That is the Liquor Commission.

Commissioner Sullivan stated: Is that what you want it to do?

Commissioner Baines stated: I do not know - We did not -

Commissioner Cook stated: Or one independent -

Commissioner Sullivan stated: Or one independent, and -

Commissioner Cook stated: What we - No. I think it is, because we did talk about that, and I think that it is what we wanted to -

Commissioner Shaw stated: But then it is not a member of a political party -

Commissioner Cook stated: No, but that means all of the members are not the members of the same political party - The intent is that you have republicans and democrats. The intent was that they not all be from one party.

Commissioner Sullivan stated: See, I thought the intent of the full Commission, and maybe we need (inaudible), is that you have representation from both major parties as opposed to -

Commissioner Cook stated: I have no problem with that, except requiring that and freezing out the other people - I mean, no place

Commissioner Sullivan stated: No. No, you are not freezing them out, what you

are saying is, is that you have to have -

Commissioner Cook stated: I think, Kathy, where we came out -

Commissioner Sullivan stated: You could have one democrat and three independents -

Commissioner Baines stated: Could you say, "that at all times there shall be at least one member from the two major parties?"

Commissioner Shaw stated: No.

Commissioner Sullivan stated: Actually, there is something right now that says the two parties that receive the most votes or something like that. In the last State election - Something like that.

Commissioner Cook stated: Yes, that is in the election section.

Commissioner Baines stated: Would you want a situation where you had four republicans and a libertarian?

Commissioner Sullivan stated: No.

Commissioner Baines stated: Why not?

Commissioner Sullivan stated: No. Libertarians do not count.

Attorney Simon stated: I am out.

Commissioner Sullivan stated: I have told you that, and Sullivan is the (inaudible) libertarian (inaudible) -

Commissioner Cook stated: That is the Liquor Commission.

Commissioner Baines stated: What? Four democrats, a libertarian and no republicans?

Commissioner Cook stated: Two republicans and a libertarian.

Commissioner Sullivan stated: You could have four libertarians and a republican.

Commissioner Baines stated: We have to decide if that is something we want to recommend, or just leave it like this?

Commissioner Cook stated: What we decided - I do not care if we change it. I really do not care if we change it.

Commissioner Sullivan stated: Maybe we need to bring that to a (inaudible) -

Commissioner Baines stated: Okay, could I make a suggestion, which I thought is what we had said. The last sentence here, "The mayor shall establish procedures to give reasonable notice of vacancies before they are filled and encourage application by citizens." I would rather it say, "provide an opportunity for application by citizens of the City." Because he could simply stay up at the (inaudible), "Well I encourage people in the community, to . . ." You know, I think there should be something - And maybe my wording is not the best, but "provide an opportunity."

Commissioner Shaw stated: But on the first day that this goes to be voted on, there is five thousand votes against it on day one.

Commissioner Baines stated: What? From who?

Commissioner Shaw stated: Well, I have not seen the Labor Rep on here. I only mention it. I don't care, you know - I mean, we have eliminated all of the -

Commissioner Cook stated: We did away with the Labor Rep.

Commissioner Shaw stated: I know, we have eliminated - But I just want you to know that five thousand people will vote against this.

Commissioner Baines stated: No, but let's talk about it. I think that would (inaudible) your point -

Commissioner Sullivan stated: Didn't we hear from a Labor (inaudible) -

Commissioner Baines stated: Well, I think that the - I do not think we ever reached a final consensus (inaudible) -

Commissioner Shaw stated: It is not here -

Commissioner Cook stated: Well, we never took a vote on it, that is for sure, because we only started voting last night. So that is clear -

Commissioner Baines stated: But your point is very well taken.

Commissioner Cook stated: Well, put that on your list of issues.

Commissioner Sullivan stated: Yes, because my recollection was that the reason people were not accepting Bob's suggestion of the departmental representative was because of the -

Commissioner Shaw stated: Conflict -

Commissioner Sullivan stated: - we thought we should keep the Union - And on - Also, we thought we should keep the Union rep[resentative] in so that this thing would get approved. I do not - I could be wrong, but that was my recollection.

Commissioner Shaw stated: But, you do not state that here, do you? No Commission -

Commissioner Cook stated: Well if we cannot remember, we have got to bring it up to the Commission.

Commissioner Shaw stated: It seems to me that you eliminated that purpose -

Commissioner Baines stated: Okay. We need to bring that - At next Tuesday's meeting we have to bring the issue - republicans, democrats and labor. Those are the major issues. Do we want to require (inaudible) major political parties, and labor.

Commissioner Shaw stated: That is why the method that they have now, out of curiosity, except for the fact that you encourage something here, and you throw in geographic, that the wording in the Charter that is there now, is probably the right wording but adding, you know - some prohibitions.

Commissioner Baines stated: But the other point that we need to look - and Mike Lopez will be the - he said it at one of the hearings, he said, "I am the Union Rep[resentative] and no one has ever contacted me and used me in that capacity.

Commissioner Sullivan stated: That is true.

Commissioner Cook stated: Nobody has every contacted anybody because the - Frankly - The thing that is so bizerk about it - I mean, Gary Rogier on the Airport Authority, who is a lieutenant in the Fire Department who is in the Union got picked. - Got picked because he was one of Ray's [Wieczorek] campaigners.

Commissioner Shaw stated: But you do not want -

Commissioner Cook stated: It makes not sense.

Commissioner Shaw stated: You want to take the people that work out at airport, and you want them to cut all of the grass at three o'clock in the afternoon. This guy is going to rise up at the meeting and say, "that is not fair." He at least is going to speak about -

Commissioner Cook stated: Nobody is going to know at the Airport, who cuts the grass at what time in the afternoon, because we do not deal with stuff like that.

Commissioner Shaw stated: You don't deal with that -

Commissioner Sullivan stated: Well, he might stand up at the next meeting because somebody called him up and complained about it, right?

Commissioner Shaw stated: Yes -

Commissioner Baines stated: Let's bring that to the full Commission next week.

Okay, Removal -

Commissioner Sullivan stated: Did we - Before we move on, do we want to plug in some language or did you do that on the first page, Brad, already, trying to draw up the geographical - No more than - whatever it was that we -

Commissioner Cook stated: It says right here, "No Commission shall have a majority of members from any ward of the City."

Commissioner Sullivan stated: You know, I did not even see that. Excuse me. I am sorry. I apologize.

Commissioner Baines stated: How about instead of providing an opportunity to establish a procedure - That makes it more specific -

Commissioner Cook stated: And encourage what you want it to be. Do you want pick one of Mr. Shaw's paragraphs here?

Commissioner Baines stated: No, but I - You know what I am concerned about, they will just look at that and say - Well, I think there should be a procedure established with the citizens to (inaudible) -

Commissioner Cook stated: When I go back to my notes, Mr. Baines, I am going to show you that you were the man who came up with the word "encourage," because it was an operative (inaudible) -

Commissioner Shaw stated: I do not think - He changed his mind - It is the principle -

Commissioner Baines stated: But that is okay, I change my mind on a daily basis.

Commissioner Shaw stated: That is right -

Commissioner Cook stated: Perfectly alright. I just wanted to point that out to you.

Commissioner Shaw stated: Especially if you are a principal of West High School -

Commissioner Cook stated: And when we come in next Tuesday, and you change that wording again -

Attorney Simon stated: Consistency is the hobgoblin of the puny mind.

Commissioner Cook stated: Foolish consistency -

Commissioner Sullivan stated: Well isn't that - (Inaudible) - The Mayor shall establish procedures to encourage application with residents of the City.

Commissioner Baines stated: I think that is what I said, originally.

Commissioner Sullivan stated: Well no, it says, "The Mayor shall establish procedures to (1) give reasonable notice, and (2) encourage application." He is required to establish procedures already here -

Commissioner Baines stated: Where is it - What are you reading from?

Commissioner Sullivan stated: My (inaudible) [Section] 3.09 - Am I in the right place?

Commissioner Cook stated: You are in the right place.

Commissioner Shaw stated: The Mayor shall establish procedures to give reasonable notice -

Commissioner Sullivan stated: One, "reasonable notice," and two - He has got to establish procedures for two purposes. One, "reasonable notice," and two, "encourage application." He does have to do the procedures, right?

Commissioner Baines stated: If that connects.

Commissioner Sullivan stated: It does, doesn't it?

Commissioner Baines stated: Well, that is what we will need -

Commissioner Cook stated: Of course, it is an "and."

Commissioner Baines stated: Wait a minute -

Attorney Simon stated: Do you really want it to happen?

Commissioner Baines stated: Yes.

Attorney Simon stated: Well then, why don't you say - (Inaudible) any personnel department anymore, so why don't you say, "The department responsible for including City employees shall -"

Commissioner Cook stated: No. Our whole theory in this Charter is that the Mayor runs the City -

Commissioner Shaw stated: No - It is - The Mayor should -

Commissioner Baines stated: Yes, that is up to the Mayor.

Commissioner Shaw stated: We do not have any departments, and we do not have any -

Commissioner Cook stated: That is up to the Mayor -

Attorney Simon stated: And that -

Commissioner Baines stated: There should be applications - My position on this, if the applications are available at the Mayor's office -

Attorney Simon stated: It is not going to happen -

Commissioner Shaw stated: Why not?

Commissioner Baines stated: - this is what I was hoping for -

Attorney Simon stated: Because it is going to get ignored.

Commissioner Cook stated: We got stuff for ignored, too - You are not going to need to sue -

Commissioner Baines stated: Okay, then I would agree with Commissioner Sullivan with this. If we could agree that, "The Mayor shall establish procedures to give reasonable notice of vacancies before they are filled, and to establish an application by citizens of the City."

Commissioner Cook stated: Wait a minute. That does not - That is not even grammatical, Mr. Principal. I mean that is -

Commissioner Baines stated: It will be when I am through.

Commissioner Shaw stated: What is it you are trying to accomplish?

Commissioner Baines stated: I just want to get rid of the word, "encourage." "Encourage" is a "feel good" word. That, and - As opposed to a concrete word -

Commissioner Shaw stated: "The Mayor shall establish . . . and give reasonable notice of vacancies before they are filled -"

Commissioner Sullivan stated: Why don't you say, "The Mayor shall establish procedures for providing notice of vacancies and for -"

Attorney Simon stated: - but, well, and that is fine too, Bob. I have got - I know you are - But, you know - I am sorry, and you guys do not get the picture. If you want it to happen, you establish it in a way that the bureaucracy does it automatically. I cite you to the present Charter, Section 3.33, removal procedures. "The Board of Mayor and Aldermen shall enact by ordinance a procedure applicable to the removal for cause of the various City officials it has the power to remove." Since 1982, never been done. If you really want it to happen, use the strength of the system.

Commissioner Shaw stated: Well, wait a second.

Attorney Simon stated: Use the bureaucracy.

Commissioner Shaw stated: Let's go - But why would they have to establish by ordinance? Why wouldn't they just have the basic right to do it? Why do they have to write a law after? I mean, what we are seeing in the Charter is that they do not have to write any laws. They have a right, right in the Charter.

Attorney Simon stated: Bob, my point is the simple one. You can tell them. You can put all of the shells that you want to in there, but if it - It is not going to happen -

Commissioner Shaw stated: But look at [Section] 3.10 -

Attorney Simon stated: The way it is written it is not going to happen.

Commissioner Shaw stated: [Section] 3.10, though. Just - Let's -

Commissioner Baines stated: Let's look at [Section] 3.10 -

Commissioner Shaw stated: Because that was your point.

Commissioner Baines stated: Right -

Commissioner Shaw stated: Here it is so much clearer than the other one. "Members of the Board or Commission of the City may be removed at any time for cause by a vote of eight Aldermen voting on a resolution," which you know - "Stating the specific reasons for such removal after finding by the Aldermen that such reason . . . after hearing."

Attorney Simon stated: It is better. No doubt about it -

Commissioner Shaw stated: - than creating an ordinance.

Commissioner Baines stated: Let me - To bring some closure to this argument, I agree with what you are saying but we do not have - See, for example, I think when there is a department head opening, Human Resources should be handling that procedure. But - And making, you know, giving recommendations to the

Mayor. But we do not have such an animal in the City of the stature of like a Human Resources (inaudible) or -

Attorney Simon stated: You may not have the stature, but you have the function -

Commissioner Baines stated: But, I do not what, you know - Let's leave that alone - We want the Mayor to do it -

Commissioner Cook stated: Well, let's get back to some perspective, alright? Okay, this was something we said would nice and we would like to put it in -

Commissioner Sullivan stated: We do not want to micro manage -

Commissioner Cook stated: This is not the biggest thing that we want to mandate in the history of the Western world -

Commissioner Baines stated: No, right.

Commissioner Sullivan stated: And we do not want to micro manage -

Commissioner Cook stated: I mean, it was not a big deal.

Commissioner Baines stated: And we wanted - We want to establish that authority with the Mayor -

Commissioner Cook stated: I still want to know what the language is though, Bob. Have you gotten to perfection yet?

Commissioner Baines stated: Yes. "The Mayor shall -" Everything is fine up to, "before they are filled, and to provide an opportunity for application by citizens of the City -"

Commissioner Cook stated: That is what you said -

Commissioner Baines stated: Right, I am going back to that again -

Commissioner Cook stated: "Reasonable notice of vacancies before they are

filled and provide an opportunity for application by citizens of this City."

Commissioner Baines stated: To provide an opportunity - Yes, that is it.

Commissioner Cook stated: Gotcha -

Commissioner Baines stated: That is good. See I told you I would -

Commissioner Shaw stated: See, you have to rely on the eight Aldermen. The Mayor would like to appoint certain persons to be head of Highway -

Commissioner Cook stated: We eliminate that eight - nine - and we would -

Commissioner Shaw stated: We would presume that the Aldermen, in their advise and consent to his nomination would want somebody qualified to do the job.

Commissioner Sullivan stated: Yes -

Commissioner Shaw stated: The Mayor might want his brother-in-law, but the Aldermen will want somebody qualified and not give the Mayor the necessary number of votes to confirm, you know - That is what we -

Commissioner Cook stated: Well, okay -

Commissioner Baines stated: Let's move on. [Section] 3.10, are we all set with [Section] 3.10?

Commissioner Sullivan stated: Maybe we take in -

Commissioner Shaw stated: We are not all Shaws and we agree -

Commissioner Baines stated: Are we all set with [Section] 3.10?

Commissioner Sullivan stated: I do not know -

Commissioner Shaw stated: I do not understand the last few words, "and after

finding by the Aldermen that such reasons -"

Commissioner Cook stated: Well, a resolution stating reasons and then they look into it and they find out that the reasons have not been set but they had a resolution to require them anyway -

Commissioner Shaw stated: Aldermen voting on them anyway - I mean, "specific reasons for such removal and after a finding by the Aldermen that such reasons," it - There is something missing here.

Commissioner Baines stated: You are right. There is. This is a very grammatically poor wording which we need to work on -

Commissioner Sullivan stated: Well, make it perfect.

Commissioner Shaw stated: No, it is just - that having found such reasons to be justified -

Commissioner Baines stated: Are just -

Commissioner Shaw stated: Are just - The position shall be made vacant.

Attorney Simon stated: Commissioners may be removed at any time for good cause.

Commissioner Baines stated: No, for cause -

Attorney Simon stated: Etcetera, etcetera -

Commissioner Baines stated: - we just want a cause.

Commissioner Shaw stated: Because he wants to? What is good cause?

Attorney Simon stated: Why don't you want good cause?

Commissioner Baines stated: Why not just cause? That is a legal term.

Attorney Simon stated: Well - Well, they are both - You could use either.

Commissioner Baines stated: I have not heard the good cause, but -

Attorney Simon stated: Oh sure -

Commissioner Baines stated: I did not know that.

Commissioner Shaw stated: Can you go to court and say that it was not a good cause?

Attorney Simon stated: Yes, you can go find cases that -

Commissioner Shaw stated: But I mean - No, no. The -

Attorney Simon stated: You can look - Precedent that relates to what is good cause and what is not -

Commissioner Shaw stated: No, no, no. The Commissioner does not think it was a good cause -

Commissioner Cook stated: Well, the Aldermen the finding. The Commissioner being removed is not going to think it is just cause.

Commissioner Sullivan stated: What if we state this - "Members of each board or Commission of the City may be removed at any time for cause -"

Commissioner Cook stated: I think that it is pretty good the way that it is, but I wrote it.

Commissioner Sullivan stated: "- after a finding by eight Aldermen that specific reasons for such removal -" or "after finding -"

Commissioner Shaw stated: But if such reasons are justified - After finding by the Aldermen that such reasons - Oh, have been established -

Commissioner Cook stated: After hearing - The reasons have been -

Commissioner Sullivan stated: Or after finding -

Commissioner Baines stated: Why don't we just put a period after removal?
Why do you need to do that?

Commissioner Sullivan stated: Well you want a finding of cause, you just -
Because -

Commissioner Baines stated: Well, if you have already established that it is a
vote of nine Aldermen - Why do you have to go on and say, "after -" Are you
saying he can't vote? You are restricting how they can -

Commissioner Sullivan stated: No, I am saying that if they - I think that it is a
good - I like the "finding." Because is somebody's job - whether it is job,
Commission, board, whatever - If somebody is about to be canned, that the
Aldermen be required to find, "Yes, he or she did not do such and such." Or, "He
and she did blah, blah, blah." There has to be finding of good reason for -

Commissioner Baines stated: Okay. Why wouldn't you start this whole
paragraph by saying something - "After a finding by the Aldermen, that there is
cause to consider removal -"

Commissioner Shaw stated: Period, yes. Take out the "and."

Commissioner Baines stated: "Members of each board or Commission of the
City may be removed at any time by a vote of nine Aldermen." So - You want to
put that up front because you are - Once you - You voted and then you say -

Commissioner Cook stated: Why? What possible difference does it make?

Commissioner Baines stated: Well, if you said that -

Commissioner Shaw stated: I can't read that sentence -

Commissioner Baines stated: I can't - And I think that is a valid point, if he
cannot read it and I can't read it and make sense of it -

Commissioner Shaw stated: You had to explain it to me.

Commissioner Baines stated: Then we are starting to have a problem -

Commissioner Shaw stated: And I am serious - And I still cannot understand it.

Commissioner Cook stated: That is okay -

Commissioner Baines stated: But if we - Let's take the concept of putting the reason out there -

Commissioner Shaw stated: Simple words -

Commissioner Baines stated: After a finding by the Aldermen that there is cause to remove a member of a board or Commission, and then go on to state the process afterwards.

Attorney Simon stated: Who brings the charge if you will let me (inaudible) -

Commissioner Cook stated: Anybody can bring the charges. We debated that. We would let anybody bring the charge -

Attorney Simon stated: Anybody, who? Any citizen?

Commissioner Cook stated: Anybody who can make a resolution. Resolutions only get before the Board of Mayor and Aldermen two ways, I think.

Commissioner Shaw stated: Do they?

Commissioner Cook stated: One is the Mayor can submit one, and the other is an Aldermen can -

Commissioner Shaw stated: A resolution is not a - you know - New business. I make a motion that - Who can make the motion? That is not a resolution, that is a motion, right? And they do that all of the time. A resolution really has to do with money matters, doesn't it?

Commissioner Cook stated: On a motion stating - Alright, on a motion.

Attorney Simon stated: You see that is why -

Commissioner Sullivan stated: By a vote -

Attorney Simon stated: - [Section] 3.33 was put in there because there were a lot of issues about what form, who brings - What form? Where is the hearing? Is it an Aldermanic hearing in an Aldermanic meeting?

Commissioner Cook stated: It is a finding by the Aldermen.

Attorney Simon stated: Well, it says "after hearing," where is the - Is the hearing at an Aldermanic meeting?

Commissioner Shaw stated: Well, where the hell else would it be?

Attorney Simon stated: Well, it could be at a Committee -

Commissioner Cook stated: If nine Aldermen are voting -

Attorney Simon stated: It could be at a Committee, Brad -

Commissioner Cook stated: With nine Aldermen on a Committee?

Commissioner Sullivan stated: Well, you know - That is possible.

Attorney Simon stated: The Committee as a whole?

Commissioner Shaw stated: Why are you (inaudible) -

Commissioner Sullivan stated: What if we say - What if we say - Wait, wait, wait -

Commissioner Baines stated: Commissioner Sullivan has the perfect wording - Please listen.

Commissioner Shaw stated: Committee as a whole is a board -

Commissioner Sullivan stated: "After a finding by the Board of Aldermen, that there is cause to remove a member of a board or Commission of the City, the Commissioner may be removed by a vote of nine Aldermen," period. Is that perfect?

Commissioner Shaw stated: Sounds like it -

Commissioner Cook stated: After a finding -

Commissioner Sullivan stated: No - What is the matter?

Commissioner Baines stated: Following a hearing -

Commissioner Sullivan stated: Well we have had the finding -

Commissioner Baines stated: Okay - That is a finding - Mean the same thing?

Commissioner Sullivan stated: Remember when we are talking about the Commissioners too -

Commissioner Shaw stated: Commissioner be removed for just cause -

Commissioner Baines stated: So I have the right to a hearing -

Commissioner Sullivan stated: We are not talking about -

Commissioner Baines stated: So I have the right to a hearing -

Commissioner Sullivan stated: We are talking about - Can I put this in perspective, too? We are talking about members of advisory Commissions, right?

Commissioner Baines stated: Probably never happen -

Commissioner Sullivan stated: What?

Commissioner Baines stated: Probably not going to ever happen -

Commissioner Sullivan stated: Yes, we are talking about members of advisory Commissions. We are not talking about department heads, we are not talking about any -

Commissioner Cook stated: No - We are just talking about - I mean -

Commissioner Baines stated: They do not need to hear it -

Commissioner Sullivan stated: A little perspective, I think on this particular point, yes.

Commissioner Cook stated: Would you read the language again so I can get it down?

Commissioner Sullivan stated: "After a finding by the Board of Aldermen that there is cause to remove a member of a board or Commission of the City, the Commissioner may be removed by a vote of nine Aldermen." If you would like, we can still say "voting on a resolution stating specific reasons for such removal." I am not sure if we need that or not -

Commissioner Shaw stated: A resolution is not the word -

Commissioner Cook stated: No, motion would be the word you mean.

Commissioner Shaw stated: We had a debate or thought, Tony, on the fact that Aldermen have - The Mayor can propose to the Aldermen certain things, and I thought that the Aldermen have a right to propose things to the board - That you cannot take away from a board of directors the right to make motions.

Commissioner Cook stated: Right -

Commissioner Shaw stated: Okay. That was the - So, there is a theory that the Mayor should bring for just cause, and get rid of somebody - But also an Aldermen should be able to petition, you know, his fellow Aldermen for the same purpose -

Commissioner Baines stated: Let's - Brad is going to work on that, with Commissioner Sullivan's advice and we will revisit it before we leave here today. Attendance. Look at the attendance issue. This is a Florida issue -

Commissioner Shaw stated: "If any member of a board or Commission fails to attend one-third of the regularly scheduled meetings of the board or Commission during a calendar year, or misses four consecutive meetings held by such board . . . the record of attendance should be reported to the Mayor and Aldermen who, upon a finding of no reasonable explanation for such absences, shall declare the office vacant." That is pretty specific.

Commissioner Sullivan stated: Yes, I like that.

Commissioner Baines stated: I like that one. That is the best wording I have heard today -

Commissioner Cook stated: Did you do that one at eleven-thirty?

Commissioner Shaw stated: Who did that one?

Commissioner Baines stated: It must have been Brad.

Commissioner Shaw stated: No - It is just -

Commissioner Baines stated: Are you all set with that wording now, Brad? Do you want to run by it one more time, or -

Commissioner Cook stated: "After a finding by the Board of Aldermen that there is cause to remove a member of a board or of a Commission of the City, the member may be removed by a vote of nine Aldermen voting on a motion stating specifically . . ." Period. Is that right?

Commissioner Baines stated: That is good. Okay, Department Heads. Can we move to this section?

Commissioner Shaw stated: Just quickly - Under the right to know - You know, this is a personnel - Does a person - like - I would like to get rid of him because

he is, you know, he got caught doing something down in the Combat Zone - But do we have to do that publicly?

Commissioner Cook stated: No. Personnel matters can be done in private. But that is not something you have to put in the -

Commissioner Sullivan stated: Who are we talking about though? I want to know - Who got caught doing what?

Commissioner Cook stated: You got some news for us, I mean - Is there something good going on?

Commissioner Shaw stated: No, but I was thinking of - you know - Some people would think he is going to church over there on Union Street -

Commissioner Cook stated: Most of us think drafting Charter provision sections at eleven o'clock at night is the most fun we ever had, but if you know something that -

Commissioner Baines stated: Okay - Here - Let's move to Department Heads - Not, okay - [Section] 3.12, Appointments. Please read this carefully -

Commissioner Cook stated: Yes sir -

Commissioner Shaw stated: Who wrote this one? "Department heads shall be appointed by the Mayor based upon merit." Okay, based on merit - How about merit and qualifications, no? Is merit and qualifications the same thing?

Commissioner Baines stated: "- and after due consideration of qualifications -"

Commissioner Shaw stated: Oh, okay.

Commissioner Baines stated: You have to read, see - If you had followed my advice and read the whole thing -

Commissioner Shaw stated: Then I would not have asked a question in other words. I agree -

Commissioner Cook stated: Now, seven becomes eight, again -

Mr. Groulx stated: Does appointed become nominated?

Commissioner Cook stated: No, not on department heads. Department heads - there is - That is the [R.S.A.] 49-C language.

Commissioner Baines stated: Okay, we are all set on [Section] 3.12 - Move to Authority.

Commissioner Shaw stated: It - Should the word "there" or something be before "consideration of their qualifications for office" or just -

Commissioner Cook stated: I think -

Commissioner Sullivan stated: Leave it there (inaudible) - it is shorter.

Attorney Simon stated: Isn't that referring basically to the job description, "qualifications for office," what the position requires? That is the way I read it, but (inaudible) -

Commissioner Sullivan stated: Alright. Basically, yes -

Commissioner Cook stated: Either way, you are going to consider whether the person fits the thing - Whether the person has qualifications, where you consider the qualifications for office - You have got to consider whether they fit -

Commissioner Sullivan stated: We are hoping that (inaudible) -

Commissioner Shaw stated: And the number of votes now is eight?

Commissioner Sullivan stated: Yes -

Commissioner Baines stated: Move to authority.

Commissioner Baines stated: Here we go, Commission now - Is that consistent, now?

Commissioner Sullivan stated: Yes, that - "Subject to directives of . . . administration, policies set by the board -"

Commissioner Shaw stated: And now you get into that second -

Commissioner Cook stated: Alright, I do not care. That is probably not consistent, anyway.

Commissioner Sullivan stated: No -

Commissioner Baines stated: Policy set by the board -

Commissioner Cook stated: Policies of the department - They are set someplace else.

Commissioner Baines stated: Oh, here you go -

Commissioner Cook stated: Just policies of the department. They are set as they are set.

Commissioner Sullivan stated: Now that - (inaudible) -

Attorney Simon stated: That is department policies - Take care of a couple more words.

Commissioner Shaw stated: Take out all of that part there that says, "policies set by the board or Commissions -"

Commissioner Sullivan stated: And just say policy - Departmental policy.

Commissioner Cook stated: That is fine. I like it.

Commissioner Sullivan stated: So it says, "as to administration and departmental policies?"

Commissioner Cook stated: Yes, and I suppose we can say "policy directives of the Board of Mayor and Aldermen" if that is one of the ways -

Commissioner Sullivan stated: Where it says, "chief administrative -" "The department head shall be the chief administrative officer of the department, subject to the directives of the Mayor as to administration and departmental policies."

Commissioner Shaw stated: Okay, the Mayor says -

Commissioner Sullivan stated: Or do you want it to be "directives of the Mayor and Aldermen?"

Commissioner Shaw stated: Who has the hiring authority?

Commissioner Cook stated: No, one is - One was policy of the Aldermen, and one was administrative of the Mayor.

Commissioner Shaw stated: I think you should put the policies of the Aldermen before you put the policies of the Mayor -

Commissioner Cook stated: I did not say policies of the Mayor, I said directives of the Mayor as to administration.

Commissioner Sullivan stated: And policies of - "Subject to directives of the Mayor as to administration and policy of the Board of Aldermen." Is that it?

Attorney Simon stated: How about departmental policy?

Commissioner Sullivan stated: Departmental policies.

Attorney Simon stated: - (Inaudible) could say the Board of Mayor of Aldermen (inaudible) -

Commissioner Cook stated: Not anymore it is not -

Commissioner Shaw stated: No we are not - But, don't you see the Aldermen, the higher authority when there are -

Commissioner Cook stated: Well, yes -

Commissioner Shaw stated: - the Aldermen are the highest authority.

Commissioner Baines stated: Yes, but he is going to respond to the Mayor, first on a day-to-day basis, the department head -

Commissioner Shaw stated: Yes -

Commissioner Baines stated: The Mayor would be first -

Commissioner Cook stated: No. Tony is right. Board of Mayor and Aldermen. (Inaudible) because we did not change it as to this stuff. We have not gotten to that yet, though - See we did three people, and we did two, because we thought two was easier. That is the first (inaudible) -

Commissioner Baines stated: Okay, are we all set now then?

Commissioner Sullivan stated: How is it reading now?

Commissioner Cook stated: "Chief Administrative Officer: the department head shall be the chief administrative officer of the department, subject to directives of the Mayor as to administration, departmental policies and policy directives of the Board of Mayor and Aldermen."

Commissioner Sullivan stated: Okay.

Commissioner Baines stated: Okay, move to Exclusive Personnel Responsibility. Any problems there?

Commissioner Shaw stated: Well - Oh, okay -

Commissioner Cook stated: I am not sure the word "only" does anything to save the world -

Commissioner Sullivan stated: No, take it out.

Commissioner Shaw stated: You know, the department head shall have exclusive responsibility for hiring and promotion. The Aldermen say you cannot

promote. Does that mean the department head has exclusive?

Commissioner Cook stated: Well, they say there is no promotions going on - then he does not have the - there is nobody to be promoted.

Commissioner Shaw stated: I only use the thought -

Commissioner Baines stated: That is a directive -

Commissioner Shaw stated: A directive. I only use the word that you use, exclusive where he does not have the exclusive authority subject to - you know -

Commissioner Cook stated: Well, he has the exclusive authority on promotions. If they say there are not going to be any promotions, then he cannot exercise that authority.

Commissioner Baines stated: Well, he still have the authority to control.

Attorney Simon stated: Is the word "exclusive" in there to protect him or her from the Commissions?

Commissioner Cook stated: Yes. We already took that power away from the Commission, however, so it may be redundant.

Attorney Simon stated: Alright, I understand it - But (inaudible) -

Commissioner Cook stated: I mean, we may - Exclusive was in there to drive the nail home again. If the nail does not need to be driven home again -

Commissioner Shaw stated: Well, we do not need to -

Commissioner Sullivan stated: Yes, if you take it out -

Commissioner Cook stated: - we can just say responsibility.

Commissioner Shaw stated: Exclusive is so strong.

Commissioner Cook stated: It is there responsibility to -

Attorney Simon stated: And do you want to say within the limits of the departmental budget?

Commissioner Shaw stated: It is so strong of a word - The department head shall have responsibility for hiring, promotion and discipline of personnel -

Commissioner Cook stated: Should responsibility be, "responsibility" or "authority?"

Commissioner Baines stated: I would use - Argue for "authority" myself, but that is my own preference.

Commissioner Cook stated: Me too.

Attorney Simon stated: Why don't you just say -

Commissioner Baines stated: You are responsible (inaudible) but you might not have the authority -

Attorney Simon stated: - just say, "shall hire, promote and discipline."

Commissioner Baines stated: - (Inaudible) just like the way this is (inaudible) -

Commissioner Cook stated: Yes, look at this maybe - I think the authority is more than the administerial -

Commissioner Baines stated: Yes. Okay. Move to supervisory -

Commissioner Shaw stated: I think that final sentence is redundant -

Commissioner Baines stated: Of the supervisory (inaudible) -

Commissioner Shaw stated: "The department head shall have exclusive authority to supervise personnel within the department." Don't you think so?

Commissioner Cook stated: Yes.

Commissioner Shaw stated: "Shall prepare such budget and program -"

Commissioner Cook stated: I think that that came out of the existing Charter.

Commissioner Baines stated: Budgetary Authorities.

Commissioner Cook stated: Requests is misspelled -

Commissioner Baines stated: So long as that is all -

Commissioner Cook stated: I wish I had my office computer at home, because it tells me what I am spelling wrong -

Commissioner Shaw stated: See, you could fire people for "D." "Department head shall prepare such budget and program plans and requests as he may -" "As may be necessary -"

Commissioner Cook stated: There are no he's in anything I wrote -

Commissioner Shaw stated: Alright. "As may be necessary for the operation -" You see, there are times when directives come from the Mayor's office that say, "you shall not produce a budget as to needs and programs and plans." He should produce a budget -

Commissioner Baines stated: I would suggest that we cut down on the run-ons -

Commissioner Shaw stated: Is that possible, Tony, that they send out a directive like that?

Commissioner Baines stated: Can we put a period after "development of the department" and start another sentence?

Commissioner Sullivan stated: Yes.

Commissioner Cook stated: The budget shall - "The department head shall

submit -"

Commissioner Baines stated: Right.

Commissioner Cook stated: That is fine.

Commissioner Baines stated: Small Purchase Expenditures - Tenure of Office -

Commissioner Shaw stated: Why not - Are you doing - Where are you? Small Purchases?

Commissioner Cook stated: No.

Commissioner Sullivan stated: Well we can go back to that, though.

Commissioner Cook stated: We can go back to that - We are at -

Commissioner Shaw stated: Under "d" there should be a period after the word "Mayor." "Set by the Mayor," period. There is no other person that should tell the departments how their budget should be produced. I think that is wrong.

Commissioner Sullivan stated: Yes -

Commissioner Cook stated: They do not have (inaudible) - Educate me, I do not know.

Commissioner Sullivan stated: It is a good point, Bob -

Commissioner Cook stated: Well, but wait a minute. How does it work? Do they come up with budget formats and things from finance or -

Commissioner Sullivan stated: The Mayor can finance if he wants their input. If he thinks that (inaudible) -

Commissioner Cook stated: No, I understand that. I understand what happens -

Commissioner Shaw stated: Set by the Mayor - If I - The Mayor can say to

finance, "Send out to all departments the following stuff," but what you have done here is that you have made two groups in charge of the same subject. I believe that only one person should be in charge - Now, you can put finance, but I do not believe that - It shall be set by the Mayor, period.

Commissioner Sullivan stated: Yes, set by the Mayor. Yes.

Commissioner Cook stated: Alright, that is fine. So what it is going to say, just so we all know, "All in accordance with guidelines set by the Mayor."

Commissioner Shaw stated: Period.

Commissioner Cook stated: All of that flowery stuff is out of there.

Commissioner Sullivan stated: Yes.

Commissioner Cook stated: Alright.

Commissioner Baines stated: Okay, can we move to Tenure of Office. Is everybody comfortable with "pleasure of the Mayor?"

Commissioner Sullivan stated: Can I ask a question? If it says that -

Commissioner Cook stated: Well, this is what we decided, so -

Commissioner Baines stated: Right, I know.

Commissioner Shaw stated: I do not think it is a pleasure, but -

Commissioner Sullivan stated: I know, but again, I was not here, but -

Commissioner Baines stated: But you know that it is going to be controversial, it is -

Commissioner Shaw stated: "Each department shall serve -"

Commissioner Sullivan stated: Yes, why - We can always take out the first

sentence altogether, and just say "The Mayor may remove a department head -"

Commissioner Baines stated: I like that idea.

Commissioner Sullivan stated: Okay. Eliminate some of the controversial language.

Commissioner Baines stated: Yes, the pleasure thing bothers me. Well, you know, it just -

Commissioner Cook stated: Why?

Commissioner Baines stated: It - I do not know, it just is -

Commissioner Cook stated: Archaic language or something?

Commissioner Baines stated: It has a funny connotation -

Commissioner Sullivan stated: It sounds dictatorial.

Commissioner Baines stated: Well, today I think I will remove -

Commissioner Cook stated: No, but that is not what it means.

Commissioner Sullivan stated: I know, but -

Commissioner Cook stated: Serving at the pleasure of the Mayor is the -

Commissioner Sullivan stated: Brad, but it is a term of art, but there are people out there who do not understand the term, or the art.

Commissioner Baines stated: There you go. And, I think that it is clearer. This is more common (inaudible) -

Commissioner Cook stated: "The Mayor may remove a Department head and (inaudible) -"

Attorney Simon stated: In your next sentence I would put a period after the word "action," and start your new sentence with "the removal."

Commissioner Cook stated: That is fine.

Attorney Simon stated: Where we say "The removal shall not be effective until it has been confirmed -"

Commissioner Shaw stated: By a vote of nine -

Commissioner Cook stated: Yes, nine.

Commissioner Shaw stated: If there is fourteen.

Commissioner Sullivan stated: Yes, shall not be effective -

Commissioner Cook stated: Well, now you are writing like I wrote the first draft and they said, "don't do that, change it around." Because that is what I said, "shall not be effective."

Commissioner Sullivan stated: Yes, I think you are probably right, though. I think you are both right. It sounds better (inaudible) -

Commissioner Baines stated: Are we all set, now? Shall we move to the final page of this - And by the way, I have already broken all of my rules - This meeting is now going on at 7:09 -

Commissioner Baines stated: Okay, so this will be the last thing we are considering tonight, Enforcement of the Charter.

Commissioner Cook stated: This is only the refinement of that language that we talked about three times, and this is the latest - Incorporating the latest suggestions that people had, that is all.

Commissioner Shaw stated: How about reported - How about putting "his" in there? Report his finding, reporting finding -

Commissioner Cook stated: Because we do not want any his's. We are keeping his's and her's out of here.

Commissioner Shaw stated: But that is not good. It does not read well. "The City Solicitor who shall report -"

Commissioner Cook stated: There is nothing wrong with that -

Commissioner Shaw stated: That is terrible, you know -

Commissioner Cook stated: We are not putting any his's in.

Commissioner Shaw stated: Well, it does not read well. "Who shall report -"

Commissioner Cook stated: "The findings of the investigation you could say -" Except that just adds words.

Commissioner Shaw stated: I cannot believe that you cannot use "his."

Commissioner Cook stated: You can. But it is not - If you can avoid using it, without screwing up the syntax, it makes - It is more p.c. [politically correct] -

Commissioner Shaw stated: "- who shall report findings." He should -

Commissioner Cook stated: We have to be "p.c."

Commissioner Shaw stated: "- and report." "The City Solicitor who shall report findings." What is he finding - Like, is he finding marbles out in the yard?

Commissioner Baines stated: I like this wording.

Commissioner Sullivan stated: Why don't you just say, "who shall report?" Why don't you just say, "The Mayor shall refer the allegations to the City Solicitor who shall report to the Mayor and Aldermen within ninety days."

Commissioner Baines stated: Excellent.

Commissioner Shaw stated: Very slick. Very, very slick.

Commissioner Cook stated: Now, what did she say? What did she say?

Commissioner Baines stated: I give Commissioner Sullivan an "A+" on her contributions this evening.

Commissioner Cook stated: What did you say?

Commissioner Sullivan stated: "The Mayor shall refer the allegations to the City Solicitor who shall report to the Mayor and Aldermen within ninety days."

Commissioner Cook stated: What is he going to report? He is going to report findings.

Attorney Simon stated: Report what? Factual allegations?

Commissioner Baines stated: Findings. You still have to have "findings."

Commissioner Sullivan stated: "He shall report -"

Commissioner Cook stated: "Findings -"

Commissioner Sullivan stated: "- findings to the Mayor and Aldermen."

Commissioner Cook stated: "- to the Mayor and Aldermen." But you could say, "findings on the allegations."

Attorney Simon stated: You want the Solicitor to determine if there has been a violation?

Commissioner Cook stated: I like it the way it is better than her statement -

Attorney Simon stated: Do you want the City Solicitor to determine if there has been a violation?

Commissioner Shaw stated: Of course.

Attorney Simon stated: Well then, I think you should say that.

Commissioner Baines stated: Because you are saying the Aldermen could -
The Aldermen still could disagree, right?

Commissioner Cook stated: What else would findings on the allegations be?

Commissioner Sullivan stated: Well, they could be finding that there is no -

Commissioner Shaw stated: There is no -

Commissioner Cook stated: Finding on the allegations is going to be justified or
it is not justified. I cannot find any (inaudible) -

Commissioner Baines stated: But if we have two lawyers who (inaudible) -

Commissioner Shaw stated: I have a -

Commissioner Baines stated: - (inaudible) understand what "findings"
represents, don't we have a problem?

Commissioner Sullivan stated: Well, that is true.

Attorney Simon stated: I thought we could take "findings" out, but "findings -"

Commissioner Baines stated: So, let's say what it means.

Commissioner Sullivan stated: Why don't we say, "In the event such review
shall not resolve the matter, the Mayor shall refer the allegation to the City
Solicitor. The City Solicitor -"

Attorney Simon stated: "Who shall investigate to determine if such violation has
occurred."

Commissioner Cook stated: "Has occurred." Period. I like that.

Commissioner Sullivan stated: "Shall report -"

Commissioner Baines stated: That says it.

Commissioner Sullivan stated: Right. Yes.

Commissioner Cook stated: Wait a minute. You are changing the meaning of what is going on. I do not mind changing the meaning of what is going on here, I just want us to know it. Because in order to do that -

Commissioner Shaw stated: You ought to write it down. That is what you want to do.

Commissioner Cook stated: Well, I want to get it done.

Commissioner Shaw stated: That is why we have a clerk. She writes it -

Commissioner Cook stated: No -

Commissioner Baines stated: Could you read that again, Commissioner Sullivan?

Commissioner Sullivan stated: Brad is going to (inaudible) his computer. Well - This assignment should read -

Commissioner Cook stated: And this is in a different computer than the other one.

Commissioner Sullivan stated: - Go - What you just said.

Commissioner Baines stated: Would you suggest something, Tom?

Attorney Simon stated: "In the event such review shall not resolve the matter, the Mayor shall refer the allegations to the City Solicitor who shall investigate to determine if such a violation occurred."

Commissioner Sullivan stated: Then, "The City Solicitor shall report -"

Commissioner Shaw stated: "To the Board of Mayor and Aldermen." I am back

to the Mayor -

Commissioner Sullivan stated: "Shall tender a report to the Mayor and Aldermen within ninety days." How is that? That would get rid of the findings and his and hers and -

Commissioner Baines stated: Does that protect the meaning, Commissioner Cook?

Commissioner Cook stated: Well -

Commissioner Shaw stated: Well, I - Here is a scenario though - And we have got to get out of here, but here is a scenario. The guy said, the Mayor - It says he will resolve this - So Aldermen say, "Oh. That was pretty tricky, wasn't it, huh? How come you did not tell us that you resolved this problem?"

Commissioner Cook stated: Alright -

Commissioner Shaw stated: Okay, well -

Commissioner Cook stated: I have it now saying, "In the event such review shall not resolve the matter, the Mayor shall refer the allegation to the City Solicitor who shall investigation to see whether a violation occurred. The City Solicitor shall report to the Mayor and Aldermen within ninety days." And then the rest of the language is the same.

Commissioner Baines stated: Right.

Commissioner Sullivan stated: Okay -

Commissioner Baines stated: Okay, before we leave - I want to make sure that Tony has -

Commissioner Cook stated: Yes, we have homework -

Commissioner Baines stated: - his proper homework, because we need opinions from you or suggestions from you. Part of the deal would be the status

of the library - Hold on, so everybody understands. We need opinions or suggestions from you of how we should deal with the issues - the following issues - relating to the status of the following entities within the City: School District -

Commissioner Cook stated: Some of these are the ones you got at that -

Attorney Simon stated: Right. (Inaudible) -

Commissioner Baines stated: Water Works; the Local Initiative Provision, in other words, how can the Charter say that an initiative can be put before the voters and it will just be advisory to them, and yet we had one on the ballot just recently, that if it had passed it would have been required. I do not know understand how that occurred.

Attorney Simon stated: What -

Commissioner Baines stated: The privatization issue. That would have been a mandatory change.

Commissioner Cook stated: Our attorney (inaudible) -

Commissioner Sullivan stated: But our Charter says that referendums are non-binding.

Commissioner Baines stated: So I am - So, how did that happen?

Commissioner Sullivan stated: I think somebody decided it was going to happen.

Commissioner Baines stated: Do you know how that happened?

Attorney Simon stated: No. I think maybe it (inaudible) ruled illegally, something (inaudible) -

Commissioner Shaw stated: But probably in the Charter it says, the Aldermen can send a question to the people that (inaudible) -

Commissioner Baines stated: See, that is what we need to know - So that we want the Charter to say what it means. If the Local Initiative is -

Commissioner Cook stated: No, except that was not a - That was a petition for articles -

Commissioner Baines stated: - binding -

Commissioner Sullivan stated: It was (inaudible) by the petition, it was not sent by (inaudible). It was petitioned.

Commissioner Baines stated: Alright. Are you clear on that, Tony?

Commissioner Cook stated: And Airport -

Commissioner Baines stated: Wait a minute - Let me make sure he is clear on that one before you move on.

Attorney Simon stated: Okay, but - I guess - What is the question?

Commissioner Baines stated: The question is, if you your Charter says, right now, that Local Initiatives are advisory only to the Mayor and Aldermen - So, how could we have an initiatives that was put before the voters and the statement was that this would be mandatory.

Commissioner Sullivan stated: I guess the question -

Attorney Simon stated: Because somebody did not obey the Charter.

Commissioner Baines stated: Well, we don't know that -

Commissioner Sullivan stated: Well, no - And I guess -

Attorney Simon stated: Well, for - On the facts that you have given me, presumptively that is going to happen. I do not think that you are going to find a legal answer to that, I think you are -

Commissioner Sullivan stated: Well, but there may be - No the question is, is there some State statute that provides for mandatory (inaudible) in referendums?

Commissioner Cook stated: Is there some other process someplace that was the alternative?

Commissioner Baines stated: Okay. Here is what it says here, "On the written petition of a number of voters - Which they went for - They got all of those petitions together - At least fifteen percent of the registered voters of the City, including at least six percent of registered vote equal - the Board of Mayor and Aldermen shall order non-binding information of questions to be placed on the ballot at any general election, whether federal, state or (inaudible) - The petition shall be limited to questions which do not involve established operational expenses of the City, or question on appointed or elected officials of the City.

Commissioner Shaw stated: Do you think the question was a Charter revision question, sent by the Board of Aldermen?

Commissioner Sullivan stated: No, the Board of Mayor and Aldermen did not submit that.

Commissioner Cook stated: It was a petition (inaudible) -

Commissioner Baines stated: - on certification - Listen please. On certification by the City Clerk of the adequacy of the petition, the Board of Mayor and Aldermen shall order such questions placed on the ballot, but the result of any such initiative shall be non-binding - here is the catch - unless otherwise required by law. So we need to know - To help us qualify this thing, we need to know how that privatization became a - If it had passed at referendum -

Commissioner Sullivan stated: You know - Talk to Leo. I think that Leo would have that -

Attorney Simon stated: I was going to say to you - And I do not mean to be flip, but - Do you want to pay me to ask Leo?

Commissioner Cook stated: Can you ask Leo in the first instance so that we can

have him do the other questions?

Clerk Piecuch stated: I think - And I brought this up to, I think, Chairman Pappas at one of the meetings - Carol Johnson was involved in this. She did some back-tracking on it, and it looks like it was part of a State statute where they have brought in the required number of petitions.

Commissioner Baines stated: Could you bring that question to the office?

Clerk Piecuch stated: Sure -

Commissioner Cook stated: Just get the answer, because that is not the most important question we have for Tony.

Commissioner Baines stated: And the others - The CIP process, but I do not know if that is a Tony issue or if that is your issue, John -

Commissioner Cook stated: Yes, that was not a Tony issue I don't think -

Commissioner Baines stated: That the issue of who to deal with the CIP language - That testimony that that needed to be -

Commissioner Shaw stated: What you mean to -

Commissioner Baines stated: To be more specific, there need to be more procedural things established - That is what I am asking - Kevin Clougherty testified to -

Commissioner Cook stated: Yes, I do not think that this is a legal issue.

Commissioner Baines stated: Okay, fine. I did not say that it was a legal issue -

Commissioner Shaw stated: You mean whether we could have a long-range budget?

Commissioner Baines stated: These are issues for referral - Legal advice and research.

Commissioner Sullivan stated: Right -

Commissioner Baines stated: Now, then we need the Library -

Commissioner Shaw stated: - right here on page 177. That is the question what the question must be, huh? We have a contract with them and it is in the City Clerk's office -

Commissioner Cook stated: You mean the contract for the atheneum?

Commissioner Sullivan stated: That is a one-page contract -

Commissioner Cook stated: Yes, but that does not - Yes, that is a one-page contract. That is -

Commissioner Baines stated: But we need to know what the legal status of that -

Commissioner Cook stated: Well, there are State statutes on library trustees and things -

Commissioner Baines stated: But we need to - Didn't we say we need to (inaudible) -

Commissioner Shaw stated: What do we need to contract?

Commissioner Sullivan stated: Whether or not the library is a department or not -

Commissioner Baines stated: Okay, and then finally - We need to deal with the issue of the MCA and the MHA. (Inaudible) how to understand to appropriately deal with those departments, if they are departments, and include them within the Charter. Am I correct?

Commissioner Sullivan stated: Yes.

Commissioner Baines stated: And then we just raised a couple of issues today about how we deal with Zoning and Planning and those types of issues.

Commissioner Shaw stated: That is part of State law.

Commissioner Baines stated: I know, but we need help with those things is what I am saying - And that is it for (inaudible) -

Commissioner Shaw stated: And State law says -

Commissioner Cook stated: No, not yet we are handing these things out -

Attorney Simon stated: Well, wait a minute -

Commissioner Cook stated: No - Not go over them. We are just handing them out for homework.

Commissioner Baines stated: Ok, okay. That is fine.

Attorney Simon stated: Now, what are you looking for from me specifically?

Commissioner Cook stated: Here is what -

Attorney Simon stated: Are you looking for a recommendation as to how to include them?

Commissioner Cook stated: No. No. We are looking - We are not looking for a recommendation on how to include them. We are looking for a legal opinion from our lawyer that, whether any departments have independent legal existence, either because of State statutes or because of some other reason, like that thing about the Water Works, that letter about the Water Works. Because, if we have departments that cannot be -

Commissioner Baines stated: - consolidated -

Commissioner Cook stated: - consolidated, amended, or whatever - Or if there is a requirement any place that certain departments be included because they were set up that way - There always will be a Water Works. I do not care about the Airport - I mean, I really do not. There will always be a Water Works, because it is established hereby and it will be a department and it will not be

messed with, and blah, blah, blah, blah - We need to know that. Because we do not want to do something that somebody out there is saying that we cannot do -

Attorney Simon stated: Okay, what do you want to do?

Commissioner Cook stated: We want to know if there are departments that have to be included in [Section] 3.03 -

Commissioner Shaw stated: Ahh, but it goes beyond that -

Commissioner Sullivan stated: But, for example, I think that it is like -

Commissioner Baines stated: It does. We need some advice on how to deal - I need, at least from my - How to deal with those issues within the Charter.

Commissioner Sullivan stated: Yes. Let me - For example, Tony, I will take the library, because I know more - best about that.

Commissioner Cook stated: You already took the library -

Commissioner Sullivan stated: I know. The Sullivans are keeping it. If Bob Shaw may, for example, has said, "Well, if we make these changes in the Charter does that mean that the Mayor has the authority to nominate the library trustees? Would the Mayor then have the authority to nominate the librarian?" And I think, if you look at the State statute, the library trustees are given the authority to nominate the librarians. So, if that is that is the case, if we say in here, the Mayor nominates department heads, then we would want to say, "except in the case of the library, they will be nominated by the trustees pursuant to R.S.A. blah, blah, blah - Or the MHA department head will be nominated by -

Commissioner Shaw stated: Until such time as it shall be changed -

Commissioner Sullivan stated: - blah, blah, blah, blah, because of R.S.A. blah, blah, blah. Do you see what I am getting at? That is - Where we are doing things in here, that we cannot impose - superimpose onto some departments for other reasons, such as State statute or whatever, we need to know that.

Commissioner Baines stated: Okay? Got that Tony?

Attorney Simon stated: What are you doing with things like the Building Department or Public Services?

Commissioner Baines stated: Nothing.

Attorney Simon stated: That are listed in the special services -

Commissioner Shaw stated: They are only going to be all listed -

Commissioner Baines stated: We are going to list them -

Attorney Simon stated: There will be a list?

Commissioner Baines stated: Yes, they will be listed but we are just having a separate category.

Commissioner Sullivan stated: Yes. The idea - The whole concept of the special versus basic is out the window.

Commissioner Baines stated: Right. Right.

Commissioner Shaw stated: The Aldermen have power over all departments except those by law and cannot be changed.

Commissioner Shaw stated: Yes. The only departments that we are going to treat - that we give any different treatment to are the ones such as, and I think we will find the library, School District, that because of their unique characteristic statutory characteristics are not the same as the Fire Department, the Building Department, blah, blah, blah -

Commissioner Baines stated: Okay. And also on the School District issue, I think there is a consensus evolving here that the Charter, as it stands now, established a School District. How can we clarify the language so that people like the finance department understand that it is a School District?

Commissioner Shaw stated: By just stating that -

Commissioner Baines stated: Yes, I know but -

Commissioner Shaw stated: More clearly. In other words, take out the word "department."

Commissioner Baines stated: You see, then that is a major - But I know, we can get rid of that, but how do we get the matter clear to them that - the finance department, really has no authority over the School District. Once that money is handed to them, they have no business interfering in the financial operations of the district.

Attorney Simon stated: Well, in the that the only issue with regard to the School District?

Commissioner Baines stated: Yes. I think it is -

Commissioner Sullivan stated: No. No, I do not think so, because it is a whole - If it is a department then -

Commissioner Baines stated: It is a District.

Commissioner Sullivan stated: Well, just for a - This is what we are trying to figure out, if it is a department as opposed to District, then the Mayor has - and the Aldermen have some authority to direct the school department -

Commissioner Baines stated: If it were a department -

Commissioner Sullivan stated: If it is a department as opposed to a District, and that is why we need to know. Is it a District or is it a department? And if it is a District instead of a department, what difference - what unique differences are there for the School District other than -

Commissioner Baines stated: - you did not ask for that though.

Attorney Simon stated: And can I say what I want? Please -

Commissioner Sullivan stated: Yes -

Attorney Simon stated: Let me just say this. That has been unclear for a hundred and fifty years and I am good, but I do not expect to be able to unravel a hundred and fifty years of confusion -

Commissioner Sullivan stated: And that is okay. No, that is -

Attorney Simon stated: But if you give me specifics -

Commissioner Cook stated: No, how do we make it clear? The question is, how do we make it clear?

Commissioner Sullivan stated: How do we make it clear? How to make it clear?

Attorney Simon stated: If you give me specifics about what you want to do and what you are concerned about -

Commissioner Baines stated: Okay, but - Here is an example. I will give you a concrete example here. In the language it refers that the School District shall operate under all of the laws and procedures that pertain to present laws pertaining to School Districts. It says that. Now, I do not think that there is any question that this is a School District. There is no question. It says that in the Charter. There are laws pertaining to School Districts, and one of them is that they made up their own financial affairs. They are given an appropriation of money. So if you are in the Town of Hudson, the School District gets the money. The Board of Selectmen do not do anything with managing their money. The School District authorizes -

Attorney Simon stated: And I think that that is a fairly simple matter to beef up that language -

Commissioner Baines stated: That is what - That is my (inaudible) -

Attorney Simon stated: So - To make that clear -

Commissioner Shaw stated: You might go (inaudible) another problem, though -

Attorney Simon stated: - alright? But that is a lot smaller issue than the enormous question of is it a department or a district?

Commissioner Shaw stated: We want to just state it, that is all.

Commissioner Baines stated: I disagree with Commissioner Sullivan that -

Commissioner Shaw stated: Well, we want to just state it. Why do we have to research it?

Commissioner Baines stated: We don't.

Commissioner Shaw stated: We just tell them that - No -

Commissioner Sullivan stated: Well, wait a minute. Let me tell you why I think there are more to it than this - Even though I think we should know, I think we should know, before we say we are going to do this or that, what the repercussions are. And if that means that, as a School District then City personnel policies do not pertain to the employees of the School District -

Commissioner Baines stated: Then they do not -

Commissioner Sullivan stated: - then we need to -

Commissioner Shaw stated: Well they do for secretaries.

Commissioner Baines stated: Yes - They only -

Commissioner Sullivan stated: Will you - Just let me finish. If there are other things in the City Charter that we say pertain to certain things that pertain to the departments if they are not going to pertain to the School District or it if makes things different for the School District, then we need to know that.

Commissioner Baines stated: That is true.

Commissioner Sullivan stated: So -

Commissioner Baines stated: I agree with you on that.

Commissioner Sullivan stated: Well, thank you -

Commissioner Baines stated: But the issue of it being a District (inaudible) -

Attorney Simon stated: But you may not find out until you have an court opinion -

Commissioner Sullivan stated: I understand that, but I mean - I understand that, but we need - but to the extent that (inaudible) -

Commissioner Baines stated: There is a (inaudible) decision by a judge that has not been challenged, that he says that there is a district.

Attorney Simon stated: Right.

Commissioner Sullivan stated: Was an appeal - But it is not on appeal, right?

Commissioner Shaw stated: You are not - But does the School District - Does the City provides nurses? Under the new Charter, do you want the School District to provide nurses?

Commissioner Baines stated: I have got your homework, so I am all set with your homework.

Commissioner Cook stated: I am not sure you (inaudible) - It is the new integrated version -

Commissioner Baines stated: Well I would like the integrated version.

Commissioner Cook stated: Alright - What this is, this is homework. The first three pages of this - this is a draft of Article two and Article five. The first three pages, which are Article two was because I could not sleep last night.

Commissioner Shaw stated: Well give me a copy so that I can see what your -

Commissioner Cook stated: But more importantly, Article five - After the

decisions we made on elections -

Commissioner Shaw stated: Oh, this is that special committee?

Commissioner Cook stated: Yes. That - Article five is the technical committee's work on elections, after the things that we decided last night. That is Kathy's and mine after working last night.

Commissioner Shaw stated: Do losers have to still file?

Commissioner Cook stated: Do losers have to file what?

Commissioner Shaw stated: - financial -

Commissioner Cook stated: No, we have not done that part. We have not gotten to financial disclosure. That -

Commissioner Shaw stated: Well, when you do that, losers do not have to file a final report.

Commissioner Sullivan stated: For you Bob, I will vote in favor of that.

Commissioner Shaw stated: Well, I do not think that the losers should have to file.

Commissioner Cook stated: I have been a client a lot of time. My personnel stuff is managing partner of the office, and I am a good client, because nobody ever doubts where I stand.

Commissioner Shaw stated: If the School District - Baines is gone. Just humor me for just a minute before you go. If the School District is totally, totally independent, except for the bottom amount of money - Are the Aldermen obligated to give them enough money for school nurses and other things that they need -

Commissioner Sullivan stated: There was a case -

Commissioner Shaw stated: No, just - Is that what you want in the Charter?

Commissioner Sullivan stated: Yes, well let me tell you though - Just from a legal standpoint, though, there was a case against - the City of Laconia was sued by the Laconia School District for failure to provide adequate funding to the School District and the Court in that case - The lower Court, my recollection is they have thrown the case out saying that there was not any standing to sue. The Supreme Court said no, the School District does have a right to sue the City because the City does have certain obligations to provide funding to the School District, and I think the two things that they referred to were that the - the things that the City must provide funding for are the items that are mandated by State statute or by State standards, by the State Education Department. So those are the - That is the - Right now what the - Although there has not been any further litigation on that -

Commissioner Shaw stated: But there is a Constitutional prohibition against the State mandating anything, so standards - the Nudick pact might now -

Commissioner Sullivan stated: It was - Part of the question was what is adequate funding though, what should the City - What is the basis, what is the basic stuff the City has got to fund?

Commissioner Shaw stated: But in lieu of money - Would the City be within its rights to give you the services that you would want. In other words, you would not have control over the nurses because the City provides you with the nurses and the City provides you with the nurses. And the nurses are then, frankly -

Commissioner Sullivan stated: You know, frankly -

Commissioner Shaw stated: Go ahead -

Commissioner Sullivan stated: I think that they should just give the School District the money and let the School District hire their nurses, hire their grounds keepers, hire their janitors -

Commissioner Shaw stated: And -

Commissioner Sullivan stated: That is what I think. But to tell you the truth -

Commissioner Shaw stated: But what if that is not more - I am only, you know - I think that they should be more independent -

Commissioner Sullivan stated: I would do that with some of the other departments too. I would say to the library, "Here. Here is some money to take care of your grounds." You know, you guys could probably find - You know - the idea that there is always savings in large purchasing is not always the case. You know, you give some of these people the ability to go out and negotiate and you might find that there might actually be a way to save some money -

Commissioner Shaw stated: See, in one of the provisions that you put in here - you see - the way it really should work is the - Under budgets - You see, really and truly the department heads should produce a budget, you know, a program - his thing - His thing - How much it will cost to do thus and thus - Mayor's and Aldermen do not have to accept those recommendations, but they should not be - Department heads should give you the truth as they see it.

Commissioner Sullivan stated: Right.

Commissioner Shaw stated: As they see it -

Commissioner Sullivan stated: Right. That is right.

Attorney Simon stated: Department heads should not be limited to certain percentages.

Commissioner Shaw stated: That is right.

Attorney Simon stated: Department heads should be allowed to bid for whatever they want if they believe that that is necessary -

Commissioner Sullivan stated: Within their budget - Right. Exactly.

Commissioner Shaw stated: The Governor -

Commissioner Sullivan stated: That is right.

Attorney Simon stated: They have got to make their own judgment about whether it is (inaudible) -

Commissioner Shaw stated: And they should be advised, Aldermen should be advised of the consequences and accept it or reject it.

Commissioner Shaw stated: But, and you know - One of the things that offended me recently, in this most recent chronicling budget go around, is that their attitude towards Joe Kane. Because, when they said -

Commissioner Shaw stated: Wasn't that mean -

Commissioner Sullivan stated: When they said, we want you to cut five percent and he said, "can't do it," and they said, "well, then we will cut you five percent." Basically - You know, we don't like your attitude. And he is saying, "No, I am telling you, I can't do it."

Commissioner Shaw stated: Especially if you have (inaudible) and the heir come to you and talk to you, you will understand why you cannot do what they say they wanted to -

Commissioner Sullivan stated: Yes - Two years ago, when the Mayor - Two years ago, the Mayor came to the library - said to Brisbin, submitted by (inaudible) to cutting "X" percent, and he prepared it and then the Trustees sent a letter to the Board of Mayor and Aldermen saying we are withdrawing that because it is the Trustees who have the responsibility for proposing the budget to the Board of Mayor and Aldermen. You cannot tell us what to put in our budget - That is our job, you cannot do that. That is one of the things that (inaudible) -

Commissioner Shaw stated: But they can send back to you the ninety-five percent -

Commissioner Sullivan stated: That is right. They can - That is their option, but I think that you are right. They - The Mayor, and maybe we can talk about that at our next full meeting of the Commission -

Commissioner Shaw stated: Well here is the ninety-five percent -

Commissioner Sullivan stated: - is when it comes to financial guidelines, I do not think that the Mayor should be mandating that you have to do this cut by five percent. They should say, "this is what we made," and then if for budgetary reasons they cannot do it - then the department head has to live within the budget they give him.

Commissioner Cook stated: Okay. Come back here - In order to provide citizen input to the City departments, the Board of Mayor and Aldermen may establish Commissions to advise the department heads -

Commissioner Sullivan stated: And Board of Mayor and Aldermen, that is what that says.

Commissioner Cook stated: Okay - Don't go away -

Commissioner Sullivan stated: Might not believe it, but it is - B and M A -

Commissioner Shaw stated: My - Their questions to you is -

Commissioner Cook stated: And then where does it go?

Commissioner Shaw stated: I would just like to tell you what is in the back of my mind, when I am going to argue this - They are doing something else - And that is department - Like the library, or the Water Works. If we - They want to know if it is established by State law. I want to know what rights to do the board of directors of the Water Works have? If there is something written that says, "And this department shall be run by a board of directors of seven people." Run, do you know what I mean, alright? Versus, you know - If you sit on a bank board, the bank (inaudible) - At the Water Works -

Attorney Simon stated: But they do in theory -

Commissioner Shaw stated: Theory - By who they select (inaudible) -

Attorney Simon stated: Yes, but the theory is that the board of directors is the

entity having management and control of the bank.

Commissioner Shaw stated: - of the bank.

Attorney Simon stated: So, and then - I mean -

Commissioner Shaw stated: What is the function of the president of the bank?

Attorney Simon stated: And that is well - To carry out the directives and the policies of the board of directors.

Commissioner Shaw stated: Well, we are doing away with that though.

Attorney Simon stated: Well, that - And that is how directors typically get themselves into trouble because they breached their fiduciary duty by just going along with whatever the CEO has to say who may be walking them down the primrose path. And that is an inherent problem with boards of directors.

Commissioner Shaw stated: Yes, it is. And they do not always like - Naysay is on there - I mean, even when they are in the minority -

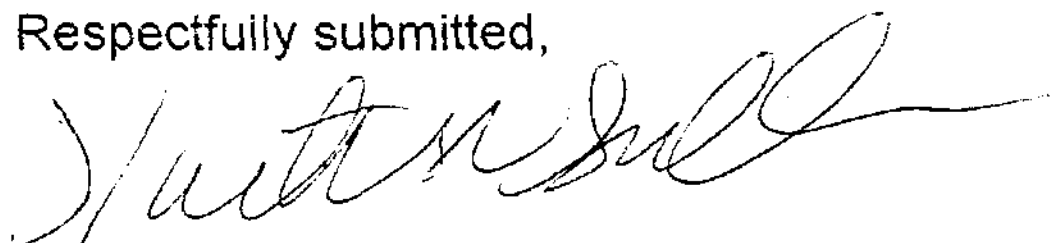
Commissioner Cook stated: On this thing, Article five is easier to deal with. All Article five did was take the existing law and plug-in non partisan and the at-large.

Commissioner Shaw stated: Told you - I mean it will be odd not to see you for the next couple of days -

Commissioner Shaw stated: Well there is not going to - You know - We got five thousand votes against us. What are we doing here?

On Motion of Commissioner Sullivan, duly seconded by Commissioner Cook, it was voted to adjourn the meeting.

Respectfully submitted,



Kathleen N. Sullivan